

**Ranking Member Hatch**

**Question 1:**

**Mr. Lew, on October 11, 2011 the Senate passed S. 1619, the Currency Exchange Rate Oversight Reform Act. I wrote then-Secretary Geithner and Ambassador Kirk before Senate debate began on S. 1619 requesting the Administrations views and concerns with S. 1619 – but neither responded before our vote.**

**Following the vote, I asked then-Secretary Geithner a question for the record during his February 14, 2012 Finance Committee budget hearing about Treasury's views on S. 1619. He replied “Aspects of (S. 1619)...raise concerns with our international obligations; if legislation were to advance, those concerns should be addressed. For any approach to be effective, it must be consistent with our international obligations.”**

**Because we have not had a hearing, and because your predecessor failed to provide the detailed views of the Administration, even today – almost a year and a half after the Senate voted on the bill last Congress – we do not know the Administration’s specific views and concerns regarding S. 1619. That is unacceptable.**

**Please provide written response that explains in detail each aspect of S. 1619, as passed by the Senate last Congress, that raises concerns for the Administration with respect to our international trade obligations and how those concerns should be addressed? Please identify specifically by provision number as identified in the bill text, which provisions concern the Administration.**

**Moreover, the Committee would benefit from the Administration’s views on the advisability or effectiveness of other provisions in the S. 1619 that, although they may comply with our international obligations, could prove ineffectual.**

I fully support the objective of taking effective actions, consistent with our international obligations, to provide a level playing field for American workers and firms, including rectifying the undervaluation of China’s exchange rate.

I understand that Treasury has been working aggressively to address China’s exchange rate, including through the U.S.-China Strategic and Economic Dialogue, the G-20, and the International Monetary Fund. I also understand that there has been some progress. From June 2010, when China moved the renminbi off its peg against the dollar, the renminbi has appreciated by about 15 percent against the dollar in real terms. China’s current account surplus has fallen from a peak of over 10 percent of GDP to under 3 percent today and U.S. exports to China have almost doubled since early 2009.

More progress, however, is needed. If confirmed, addressing China’s exchange rate would be a top priority. I would press China to move to a market-determined exchange rate, level the playing field for our workers and firms, and support a sustained shift to domestic consumption-

led growth in China. If confirmed, I would welcome the opportunity to work closely with Congress on this important issue.

**Question 2:**

**Do you support the United States taking unilateral steps to counter the effects of currency intervention, misalignment, or manipulation by our trading partners? What are the risks of taking unilateral actions? Would you characterize S. 1619 as passed by the Senate in 2011 as a unilateral approach to addressing currency issues?**

The Administration supports taking steps that are both effective and consistent with our international obligations to address currency manipulation for purposes of gaining unfair competitive advantage in international trade.

**Question 3:**

**Do you believe that signing S. 1619 into law would create millions of jobs in the United States?**

I fully support the objective of taking effective actions, consistent with our international obligations, to provide a level playing field for American workers and firms, including rectifying the undervaluation of China's exchange rate. This is important for exports, jobs, and growth.

**Question 4:**

**Do you believe that S. 1619 is consistent with U.S. trade policy and trade commitments?**

Please see my answer to Question 1.

**Question 5:**

**Does the Administration support setting time frames that require our trading partners to take certain actions to better align their currency with market principles? What problems would triggering steps by the Administration on a fixed timeline present for the Administration?**

The Administration supports pressing China in ways that are both effective and consistent with its international obligations to move more rapidly to market-determined exchange rates, as it has committed in the G-20.

**Question 6:**

**Would the impact of S. 1619 change if the country allegedly misaligning its currency is a non-market economy? How will the provisions of S. 1619 operate differently when applied to a non-market economy as opposed to a market economy?**

Please see my answer to Question 5.

**Question 7:**

**Could you please explain how the antidumping and countervailing duty provisions in S. 1619 are consistent or inconsistent with U.S. WTO obligations?**

Please see my answer to Question 5.

**Question 8:**

**Is currency manipulation or fundamental misalignment a subsidy?**

Please see my answer to Question 5.

**Question 9:**

**Do you, and does the Administration, support raising U.S. tariffs to remedy currency misalignments in foreign countries?**

Please see my answer to Question 5.

**Question 10:**

**If Congress were to pass S. 1619, would President Obama sign it?**

I cannot speculate on what the President would do with respect to any particular legislation passed by Congress.

**Question 11:**

**Do you believe that the remedies provided for in S. 1619 will have any meaningful impact on China's decision-making or behavior with respect to its currency policies?**

Please see my answer to Question 1.

**Question 12:**

**How many jobs would passage of S. 1619 create in the United States? Would you characterize S. 1619 as a jobs bill that will have a meaningful impact on the stubbornly high U.S. unemployment rate?**

Please see my answer to Question 3.

**Question 13:**

**Do you support prohibiting China or any other country that fundamentally misaligns its currencies from participating in U.S. government procurement?**

I fully support the objective of taking effective actions consistent with our international obligations to provide a level playing field for American workers and firms and to address the undervaluation of China's exchange rate. On government procurement more generally, I understand that the Administration, led by USTR, has been working hard both multilaterally and bilaterally to have China fulfill its commitment to join the WTO Government Procurement Agreement (GPA). Since China has not yet joined the GPA, it does not have the preferential access to U.S. government procurement currently enjoyed by GPA members and our free trade agreement partners.

Since June 2010, when China moved the renminbi off its peg against the dollar, the renminbi has appreciated by about 15 percent against the dollar in real terms. But more progress is needed. If confirmed, addressing China's exchange rate would be a top priority. I would press China to move to a market-determined exchange rate, level the playing field for our workers and firms, and support a sustained shift to domestic consumption-led growth in China.

**Question 14:**

**Do you support prohibiting OPIC and multilateral bank financing to countries that fundamentally misalign their currencies?**

I fully support the objective of taking strong actions that are both effective and consistent with our international obligations to provide a level playing field for American workers and firms against their foreign competitors.

Moreover, for other reasons specific to China, I understand that OPIC programs in China are already prohibited as a matter of law. I also understand that Congress has directed Treasury to vote against all multilateral development bank lending to the country, except in very limited cases to projects that meet basic human needs. If confirmed, I would continue to carry out these directives.

**Question 15:**

**Please describe what types of remedial interventions Treasury could take – in partnership with the Federal Reserve, International Monetary Fund (IMF), and other monetary authorities – to mitigate interventions in international currency markets and respond to fundamentally misaligned currencies in other countries.**

I understand that Treasury is using strong efforts in the International Monetary Fund (IMF), the G-20, and the Strategic and Economic Dialogue to address fundamental currency misalignments. There has been some progress. I understand that in response to strong U.S. efforts, the IMF has taken steps to increase its surveillance of exchange rates in recent years, including, publishing for the first time in 2012 the real effective exchange rate misalignments of 28 economies through its Pilot External Sector Report (ESR). It also is my understanding that the July 2012 ESR assessed

that 9 of the 28 currencies were undervalued, and none by more than 15 percent, and that China's currency was assessed to be 5 to 10 percent undervalued.

**Question 16:**

**If S. 1619 passed Congress and was signed by the President, under what circumstances would you recommend to the President that the remedies required by S. 1619 would cause serious harm to the national security of the United States and should be waived? Under what circumstance would you recommend a similar waiver because it would be in the vital economic interest of the U.S. to do so and that adopting such remedies would have an adverse impact on the U.S. economy greater than the benefits of such action?**

I am not in a position to speculate about what actions I might advise the President to take in specific circumstances under the provisions of legislation that has not passed Congress.

**Question 17:**

**Do you support the provisions in S. 1619 that would allow Congress to overrule a waiver determination by the President?**

Please see my answer to Question 1.

**Question 18:**

**Do you believe that is possible to quantify a specific percentage that a currency is misaligned? Do you agree that "fundamental misalignment" means a significant and sustained undervaluation of the prevailing real effective exchange rate, adjusted for cyclical and transitory factors, from its medium-term equilibrium level?**

Although I have not specifically studied this very complex issue, I understand that there is no single widely-accepted model for determining exchange rate equilibrium. I also understand that views among technical experts vary considerably with respect to exchange rate models and the outcomes that those models produce, as well as the factors that determine exchange rates at any point in time or over time.

**Question 19:**

**Is the Treasury Department capable of analyzing on a semiannual basis the prevailing real effective exchange rates of foreign currencies?**

I understand that Treasury includes analysis of real effective exchange rates in its Semiannual Report to Congress on International Economic and Exchange Rate Policies. Real effective exchange rates provide an important metric of the change in value of a country's currency over time weighted by the share in trade of each trade partner and adjusted for relative rates of inflation. I understand that there already are several indices that record or show changes in real effective exchange rates over time.

**Question 20:**

**Can current IMF surveillance methodology determine whether or not a country's currency is fundamentally misaligned?**

I have not specifically studied this technical issue; however, I understand that there is no single widely accepted model for determining exchange rate equilibrium. I understand that views among technical experts vary considerably with respect to exchange rate models and the outcomes that those models produce, as well as the factors that determine exchange rates at any point in time or over time.

**Question 21:**

**Do you think that the Department of Commerce could calculate an accurate dumping or countervailing margin to offset the effects of a fundamentally misaligned currency? If currencies' values change from day to day, would Commerce need to also adjust any antidumping or countervailing margin?**

Calculating currency misalignments is a complex technical issue and not one that I have specifically studied. I understand that there is no single widely accepted model for determining exchange rate equilibrium. I also understand that views among technical experts vary considerably with respect to exchange rate models and the outcomes that those models produce, as well as the factors that determine exchange rates at any point in time or over time.

**Question 22:**

**Can the Congress mandate that the Executive branch launch WTO dispute consultations with another country on a fixed time frame?**

The Obama Administration has a strong record of pursuing U.S. rights under the WTO using all available means, including through the initiation of WTO dispute settlement procedures, if necessary. I understand that as part of that effort, USTR consults closely with this Committee and others in Congress. If confirmed, I would work closely with USTR on its efforts to vindicate U.S. rights in the WTO. I would defer to the Department of Justice on the question of whether Congress has the authority to direct the Executive branch to initiate WTO dispute consultations with another country.

**Question 23:**

**Do you believe that trade remedies can effectively mitigate the effects of misaligned currencies?**

Please see my answer to Question 1.

**Question 24:**

**Does the Administration support the repeal of The Exchange Rates and International Economic Policy Coordination Act of 1988?**

I am not aware that the Administration has proposed the repeal of the Exchange Rates and International Economic Policy Coordination Act of 1988 and am not in a position to comment on possible legislation.

If confirmed, I would take seriously my responsibility to carry out U.S. law and to prepare the Report to Congress on International Economic and Exchange Rate Policies.

**Question 25:**

**As the China trade deficit has increased, is it true that Asia's share of the U.S. trade deficit has actually declined? Do our current trade numbers capture the value added by U.S. and other foreign countries to goods assembled in China?**

I understand that as China's share has increased from 22 to 53 percent since 2000, the share of other economies in the Asia-Pacific region has declined from 36 to 14 percent. It also is my understanding that trade data are not calculated on a value-added basis.

**Question 26:**

**Do you support the conclusions by the Economic Policy Institute that 2.4 million jobs were lost to China as a result of China's currency manipulation and unfair trade policies?**

I support efforts to create a more level playing field with China in order to support U.S. growth and jobs. If confirmed, I would press China to rebalance its economy toward domestic consumption-led growth, which will benefit Americans as Chinese households are able to buy more American goods and services. Chinese exchange rate reform is a critical part of this effort and I would press for greater exchange rate flexibility.

I also understand that the Administration has aggressively enforced our trade rights, doubling the rate of WTO cases against China compared to the prior Administration. If confirmed, I would support a continuation of this strategy.

**Question 27:**

**Do you believe that if China appreciated its currency to a market-based level that it would result in a significant reduction of the United States' overall trade deficit? What are the primary drivers of the U.S. trade deficit? Is the currency level of China, or any other major trading partner, a primary driver of the U.S. trade deficit?**

I believe that it is critical for China to move toward a market-determined exchange rate to support stronger, more sustainable, and more balanced global growth; to achieve more balanced

trade; and, to create greater opportunities for American firms and workers to benefit from the U.S.-China economic relationship.

The United States' overall trade deficit has been the result of a number of factors, including the imbalance of domestic saving and investment and differences in growth rates between the United States and its trading partners. The U.S. trade deficit shrank in late 2008 and 2009 because U.S. demand for imports collapsed as a result of the recession. One of the keys to addressing the U.S. trade deficit over the longer term is to put public saving and spending on a sustainable trajectory.

**Question 28:**

**Is it a fact that in the three years from 2005 to 2008, China's currency appreciated about 20 percent? Is it a fact that during that time the U.S. bilateral trade deficit with China grew? Is it a fact that during the first two years of the financial crisis and economic recession, China's exchange rate was pegged to the dollar – yet the U.S. bilateral trade deficit with China decreased?**

Yes, I understand that the renminbi appreciated by about 20 percent against the dollar between 2005 and 2008, and that the U.S. bilateral trade deficit with China grew during the period. I also understand that this deficit shrank slightly between the first half of 2008 and the first half of 2010.

**Question 29:**

**On January 12, 2012, I wrote to then-Treasury Secretary Geithner and Ambassador Ron Kirk: “Many stakeholders believe that currency practices must be directly addressed in bilateral and multilateral trade negotiations, particularly negotiations such as TPP which are designed to address “21<sup>st</sup> Century” international trade agencies. Addressing currency manipulation in the TPP becomes particularly important as the Administration considers the possibility of new TPP participants, such as Japan, who have demonstrated a pattern of currency interventions. Given Japan’s professed interest in joining the TPP, I respectfully request that the Administration provide its views regarding the inclusion of such a currency provision as a key negotiating objective in the TPP.”**

**On April 16, 2012, I received the following written response from then-Treasury Secretary Geithner and Ambassador Ron Kirk: “We also appreciate your interest in views on how currency issues could figure in future and ongoing negotiations. Like you, we have taken note of considerable stakeholder interest in this issue, and we will want to be in close contact with you as we consider possible approaches to persistent rate misalignments.”**

**Unfortunately, there was no engagement from the Administration on the issue of whether or not to include such a provision in the TPP negotiation following receipt of that letter. As a result, I reiterated my request to then-Secretary Geithner on October 18, 2012:**

**“Despite your acknowledgement that there is strong interest among U.S. stakeholders in including provisions to address persistent currency manipulation in on-going trade**

**negotiations such as TPP, and your interest in remaining in close contact on the issue, there has been no effort to engage in any substantive dialogue since your reply in April of 2012. Meanwhile, negotiations to conclude TPP continue. In fact, the 15<sup>th</sup> Round of TPP negotiations are scheduled to be held in New Zealand on December 3-12, 2012. Given the critical nature of currency manipulation and its impact on U.S. competitiveness, I again respectfully request that the administration provide its view before the next round of TPP negotiations regarding the inclusion of a currency provision as a key negotiating objective in the TPP.”**

**Despite my request for the administration’s views before the December 3-12, 2012 TPP Round, I did not receive a reply from the Treasury Department until December 19, 2012, seven days after the Round concluded. In that reply, Assistant Secretary for Legislative Affairs Alastair M. Fitzpayne wrote:**

**“Finally, we are giving careful consideration to the potential benefits and risks of seeking new negotiating objectives for future and ongoing trade negotiations, drawing on our experiences in the WTO, the IMG, and the G-20, and recognizing that the negotiating goals we have set for the Trans-Pacific Partnership are ambitious and appropriately so in order to achieve a high-standard 21<sup>st</sup> century trade agreement.”**

**Please answer each of the following questions:**

- a. What are your views regarding the inclusion of provisions to address persistent currency manipulation in on-going trade negotiations, such as TPP?**

It is my understanding that Treasury is addressing international currency issues in various international fora, including in the G-20, the IMF, and the WTO. In these venues, I understand that Treasury has underscored the importance of market-determined exchange rates in promoting more balanced global trade, avoiding persistent exchange rate misalignments, and advocating for faster and more efficient global adjustment of external imbalances. I also understand that Treasury has pushed for strong surveillance by the IMF of its member obligations to avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

If confirmed, I would give careful consideration to the potential benefits and risks of seeking new negotiating objectives for ongoing and future trade negotiations, drawing on Treasury’s experiences in the WTO, IMF, and G-20, and recognizing that the negotiating goals that we have set for the Trans-Pacific Partnership are ambitious and appropriately so in order to achieve a high-standard 21st century trade agreement. If confirmed, addressing currency issues would be a top priority.

- b. According to Treasury’s December 19, 2012 reply, the Department is deliberating about whether to see new negotiating objectives. Yet no one has contacted my office about these deliberations, despite a professed interest by Treasury to be in close contact with me as you consider possible approaches to persistent rate**

**misalignments. This is unacceptable. Should you be confirmed, will you pledge to immediately and substantially improve Treasury's Congressional consultation procedures?**

I take Congressional consultations very seriously. If confirmed, I would welcome the opportunity to discuss this further with you and others on the Committee.

**Question 30:**

**In a recent Op-Ed, Bob Zoellick wrote “Central banks have tried most every tool to stimulate growth; if Japan is any warning, the next tactic is competitive devaluation, which risks a new protectionism. ‘Currency manipulation’ could become a danger that reaches far beyond the debate about Chinese policies. The world economy will need at some point to withdraw the drug of cheap money and negative real interest rates. The U.S. should anticipate these dangers.” Please answer each of the following questions separately:**

- a. Do you agree that competitive currency devaluations risk a new form of protectionism?**

I agree that competitive currency devaluations risk protectionism. That is why I believe the commitments made by the G-7 and G-20 members this week are significant.

Specifically, I understand that G-7 members committed that fiscal and monetary policies would be oriented toward domestic objectives using domestic instruments and not target exchange rates.

- b. Do you agree that the world will need to withdraw from policies of cheap money and negative real interest rates?**

This question is more appropriate for the Federal Reserve in light of their responsibility for monetary policy.

- c. What criteria will be used to determine when it is time to stop the flow of cheap money?**

Please see my answer to Question 30(b).

- d. What will you do to prepare the United States to phase out and end its addiction to cheap money?**

Please see my answer to Question 30(b).

- e. Do you support a strong dollar policy?**

Treasury has had a longstanding position, through Administrations of both parties and over many years that a strong dollar is in the best interests of promoting U.S. growth, productivity, and competitiveness. If confirmed, I would not change that policy.

- f. **Do you agree that the IMF and the World Trade Organization should anticipate this risk and give effect to the existing WTO agreement that economies must "avoid manipulating exchange rates . . . to gain an unfair competitive advantage."**

It is my understanding that IMF members must avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members, and that the WTO similarly requires that WTO members cannot, by exchange action, frustrate the intent of the provisions of the WTO Agreements.

I understand that the IMF has taken steps to increase its surveillance of exchange rates in recent years, including publishing for the first time in 2012 the real effective exchange rate misalignments of 28 economies through its Pilot External Sector Report.

I also understand that the WTO has initiated discussions on the relationship between exchange rates and trade in which Treasury has underscored the importance of market-determined exchange rates in supporting growth and trade.

If confirmed, I would continue Treasury's efforts in the IMF and the WTO, as well as in the G-20, to ensure members comply with these commitments.

**Question 31:**

**Mr. Lew, do you believe that countries intentionally undervalue their currencies to gain a trade advantage against their competitors? Do you support raising U.S. tariffs to remedy currency manipulation in foreign countries? Please describe in detail the negative effects to the global economy if countries resorted to tit-for-tat tariff retaliation in order to affect each other's currency policies.**

I am not yet in a position to evaluate why certain currencies may be undervalued. I understand that Treasury has noted, however, that China's currency remains significantly undervalued and that Treasury is pressing China for policy changes that increase exchange rate flexibility and level the playing field for U.S. workers and firms.

It is my understanding that our trade partners have taken on important commitments in the IMF as well as in the G-20. I believe it is critically important that they adhere to these commitments, especially in light of the fragility of the global recovery. I also understand that IMF Article IV legally requires that each IMF member shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

In addition, I believe that just this week, G-20 members committed to refrain from competitive devaluation, not to target exchange rates for competitiveness purposes, and resist all forms of protectionism. I also understand that G-20 members further committed to move more rapidly

toward market-determined exchange rate systems and avoid persistent exchange rate misalignments.

I believe that it is important for countries to adhere to these commitments to avoid beggar thy neighbor policies and possible retaliation which could further undercut a fragile global recovery and reduce market confidence, resulting in greater unemployment and weaker growth.

**Question 32:**

**Mr. Lew, can current IMF surveillance methodology determine whether or not a country's currency is fundamentally misaligned? Can IMF, or any other methodology, consistently calculate the percentage difference between a fundamentally misaligned currency and a properly aligned currency? Please provide a detailed response to each question.**

It is my understanding that the IMF has published the real effective exchange rate misalignments of 28 economies through its Pilot External Sector Report. I also understand that there are other methods to calculate estimates of misalignments

**Question 33:**

**Why does Treasury Co-Chair the Strategic and Economic Dialogue? Most of the issues addressed and results achieved by the S&ED and its predecessor, the Strategic Economic Dialogue, were negotiated by non-Treasury agencies – so should the S&ED be led by the U.S. Trade Representative or another cabinet officer?**

I believe that the S&ED has served as the overarching framework for our economic engagement and proved to be a successful mechanism for addressing cross-cutting strategic economic priorities and concerns with an often times stove-piped Chinese government at the highest levels. As a result, I understand that this Administration (as well as the previous Administration) has secured concrete results across the entire spectrum of our economic agenda with China.

For example, China has committed to accelerate its shift toward domestic consumption-led growth, including through enhanced exchange rate flexibility and transparency and tax reform. China has taken a number of steps to reform and open its financial sector, which are critical to leveling the playing field and making the transition to sustainable growth, including interest rate liberalization, and improved access for U.S. financial services firms such as in the areas of securities, banking, insurance, and auto finance. China has committed to negotiate new rules on official export financing with the United States and other major providers.

But much remains to be done. If confirmed, I would continue to press China to undertake cross-cutting economic reforms that will rebalance China's economy toward domestic-driven, consumption-led growth and that will help level the playing field for U.S. workers and firms. I would do so using all appropriate opportunities, including bilaterally through the S&ED as well as the Commerce Department and USTR co-led Joint Commission on Commerce and Trade, and multilaterally.

**Question 34:**

**Please rank in order of priority the top five economic issues that prevent a more open, balanced, and transparent economic, trade, and investment relationship between the United States and China.**

I believe that the five issues, not in rank order, that are important to achieving a more open, balanced, and transparent economic, trade, and investment relationship between the United States and China are for China: (1) continuing to move to a market-determined exchange rate; (2) accelerating its shift toward domestic consumption-led growth, including through exchange rate flexibility and transparency, tax reform, and financial sector reform; (3) strengthening further enforcement and protection of intellectual property rights, including against trade secret theft; (4) abiding by international guidelines, including on official export financing; and (5) providing non-discriminatory treatment for enterprises of all kinds of ownership. In each of these areas, I understand that we have made progress and that China has made commitments in the S&ED.

Notwithstanding the real progress that has been made in these areas, I believe that there is more to do. If confirmed, I would press China to implement fully its commitments and to level the playing field for American firms and workers. I also would press China to continue to undertake cross-cutting economic reforms, including financial reform and exchange rate reform, which will rebalance China's economy toward domestic driven, consumption-led growth that will not discriminate against U.S. companies and goods and that will reduce barriers to U.S. exports, creating more jobs for U.S. workers.

**Question 35:**

**Please explain when it is appropriate for the CFIUS process to block a foreign investment into the United States?**

I understand that CFIUS seeks to resolve any national security concerns that may arise from transactions it reviews, including by negotiating mitigation agreements, wherever reasonably possible, so as to allow the transactions to proceed. I further understand that it would be appropriate for CFIUS to recommend to the President that he suspend or prohibit the transaction in instances where CFIUS determines that no mitigation is available to resolve national security concerns arising from the transaction.

**Question 36:**

**As you know, U.S. companies that invest abroad must take into account numerous business and political risks. However, established international treaty obligations between sovereign nations such as the bilateral investment treaties (BITs) and the International Center for Settlement of Investment Disputes (ICSID) Convention may mitigate these risks and encourage U.S. investment abroad. The failure to comply with these international treaty obligations by certain signatories to these treaties such as Argentina, however, puts U.S. investors and business at risk.**

**A Texas-based water services company named Azurix invested significant capital in Argentina in preparation for a 30-year water concession in the country, but the Government of Argentina had effectively expropriated Azurix's investment after just a few years.**

**Azurix sought and was awarded a judgment pursuant to the U.S.-Argentina BIT in 2009 under the ICSID Convention that is now worth \$242 million. Argentina, however, has repeatedly refused to pay the award, insisting instead – counter to the very purpose of the BIT – that Azurix must refile its claim in Argentina's domestic courts.**

**To allow countries like Argentina to ignore international treaty obligations is dangerous and weakens the position of U.S. businesses both at home and abroad. The United States has already withdrawn Argentina's Generalized System of Preferences (GSP) benefits, voted against multilateral development bank loans to Argentina, and voted for the International Monetary Fund (IMF) censure of Argentina. What else can the U.S. government do to ensure that U.S. investors are protected from nations that intentionally ignore their BIT and ICSID obligations? Given that many apparent mechanisms for encouraging Argentina to comply with treaty obligations are ineffective without the support of the international community, will the U.S. Department of Treasury actively urge other countries to vote against multilateral development bank loans to Argentina until Argentina complies with its treaty obligations and pays its arbitral award obligations to successful ICSID claimants?**

I share the serious concerns about Argentina's unwillingness to honor its international obligations.

If confirmed, I would have Treasury continue to work actively to press Argentina at every appropriate opportunity to honor its obligations.

I understand that Treasury is pressing Argentina to abide by its international obligations and to normalize its relationship with the international financial community and foreign investors, including by honoring its international obligations to provide accurate data to the IMF, paying amounts that are past due to the United States and other Paris Club members, and honoring final arbitral awards in favor of U.S. companies.

Because of these concerns about Argentina, I understand that Treasury has opposed practically all lending to Argentina through the multilateral development banks and supported the IMF's decision to censure Argentina for its misreporting of data, and President Obama suspended Argentina's eligibility for trade preferences under the Generalized System of Preferences program. It is also my understanding that almost all other donors at the Inter-American Development Bank have joined the United States in opposing proposed loans to Argentina. I understand that such a level of disapproval by other donors against the proposed loans to any single country is unprecedented in recent memory, and follows from the leadership position Treasury established in 2011.

**Question 37:**

Please review the following Pre-Due Diligence Question you received on February 6, 2013:"As Director of OMB during this time period, are you whether the recommendations were submitted to the President as required by the Presidential Memorandum of March, 2011? Were these recommendations submitted to the President in June, 2011? Regardless of whether the recommendations were actually submitted, are you aware of their contents? Have these recommendations been made public?"

You responded in writing to this question that: "The Chief Performance Officer briefed me—in my role at the time as Director of the Office of Management and Budget ("OMB")—on the recommendations of the Initiative. As directed in the Memorandum, the Chief Performance Officer submitted a recommendation to the President to restructure and streamline government programs focused on trade and competitiveness."

Please elaborate on your answer, specifically answer each of the following questions separately:

- a. On what date were the recommendations submitted to the President?
- b. Please provide a copy of the recommendations submitted to the President.
- c. Please indicate whether a copy of these recommendations has been shared with any member of the public.

You further responded: "In response, the President requested in January 2012 that Congress revive the authority of previous Presidents to submit proposals to reorganize Executive Branch departments. The proposed legislation would require that any reorganization plan submitted to Congress would reduce the size of government or would save money. The President stated publicly that his first proposal would focus on promoting economic growth and spurring job creation. The Initiative's recommendation was to consolidate six agencies primarily responsible for business competitiveness and exports into one new Department with the dedicated mission to help American businesses grow, hire, and thrive in the global economy. After examining the international trade functions of the Departments of the Treasury and Agriculture, the Initiative concluded that these programs were integral to the Departments and thus were not included in the proposal. For example, foreign currency issues are a fundamental responsibility of Treasury."

Congress did not act upon the President's proposal to reinstate consolidation and Reorganization authority. If Congress passes legislation to provide such authority, I believe the President would consult with Members of Congress, stakeholders, and federal employees to develop specific legislative proposals to reorganize Executive Branch departments and agencies."

From your response, it appears that the President does not have a specific legislative proposal to reorganize Executive Branch departments and agencies and that passage of

authority to consolidate and reorganize the executive branch is a condition precedent for developing specific legislative proposals. Please answer each of the following questions separately:

- a. Does the President have a specific legislative proposal to reorganize Executive Branch departments and agencies? If so, please provide a copy of that proposal.
- b. If not, is passage of authority to consolidate and reorganize the executive branch a condition precedent for the President to develop a specific legislative proposal?
- c. Do you believe it is reasonable to request broad authority to reorganize Executive Branch agencies when the Executive Branch has failed to develop or provide any specific legislative proposal?

From your response, it appears that the President will not consult with Congress, stakeholders, and federal employees on specific legislative proposals until Congress passes authority to consolidate and reorganize the executive branch. Yet, you further responded that: "The Administration has taken a number of additional steps. By Presidential Memorandum, it created BusinessUSA, a streamlined one-stop shop for access to information useful to businesses seeking to export and grow. It established a cross-agency priority goal for increasing exports, laying out specific milestones, and reporting progress quarterly. By Presidential Memorandum, the President strengthened the role of the Export Cabinet to maximize the effectiveness of federal programs supporting trade and investment. And, by Executive Order, he established the Interagency Trade Enforcement Center to improve the nation's trade enforcement capabilities." Please answer each of the following questions separately:

- a. Did the President consult with Congress before issuing these Presidential Memorandums or Executive Orders? If so, please provide the specific dates of those consultations and who was consulted.
- b. Did the President consult with stakeholders before issuing these Presidential Memorandums or Executive Orders? If so, please provide the specific dates of those consultations and who was consulted.
- c. How many Executive Orders has the President issued related to international trade and competitiveness since January 1, 2009?
- d. How many Presidential Memorandums has the President issued related to international trade and competitiveness since January 1, 2009?
- e. How many interagency task forces has the President created related to international trade and competitiveness since January 1, 2009?
- f. Please describe how creation of the Interagency Trade Enforcement Center and reprogramming of funds impacted the overall budget of the Office of the U.S. Trade

**Representative? Please be specific and provide a breakdown of the budget impact by function and office.**

**In press reports from January 13, 2012, Jeffery Zients was reported as saying that the International trade agency reorganization would be the first of a “series” of proposals to reorganize government. Please answer each of the following questions separately:**

- a. Does the President have any other proposals to reorganize executive branch agencies?**
- b. If the President does have additional proposals to reorganize executive branch agencies, which agencies are part of those proposals?**
- c. If the President does have additional proposals to reorganize executive branch agencies, are those proposals public?**
- d. If not, does the President intend to develop any other proposals to reorganize executive branch agencies?**
- e. If so, which executive branch agencies?**
- f. If so, when will these proposals be made public?**

As directed in the Presidential Memorandum, the Chief Performance Officer submitted recommendations to the President. The President’s announcement in January 2012 reflected the Chief Performance Officer’s recommendations, and that proposal is public.

As I noted in my previous submission to the Committee, the President requested in January 2012 that Congress revive the authority of previous Presidents to submit proposals to reorganize Executive Branch departments. The reorganization authority requested by the President sets forth a process for expedited review of proposals while ensuring that Congress has a critical evaluative role and that proposals can only go forward through affirmative action by Congress. Should Congress pass legislation to provide such authority, the President has outlined a framework for integrating the six primary business and trade departments and agencies (as well other related programs) into one new Department responsible for the government’s core trade and competitiveness functions. Congress did not act on the President’s proposal to reinstate consolidation and reorganization authority, and the Administration has not put forward any additional proposals to reorganize federal agencies.

In regard to the Interagency Trade Enforcement Center (ITEC), the President issued an Executive Order on February 28, 2012, which established the ITEC. The Administration is committed to leveling the playing field for American workers and businesses and making sure they are able to compete successfully in global markets. The goal of the ITEC is to build upon existing capacity through a unit that coordinates trade enforcement to give U.S. companies, workers, and producers every chance to compete on a level playing field in today’s global marketplace. I understand that in FY 2012, USTR reallocated existing monitoring and

enforcement funds and reprogrammed \$450,000 to conduct monitoring and enforcement functions in conjunction with the ITEC.

**Question 38:**

During our preliminary meetings and requests for information regarding your nomination to be Treasury Secretary, I asked why the international trade functions of the Department of Treasury and the Department of Agriculture were exempted from the Administration's reorganization proposal that you oversaw as Director of OMB? In response to my question you wrote, "After examining the international trade functions of the Departments of the Treasury and Agriculture, the Initiative concluded that these programs were integral to the Departments and thus were not included in the proposal."

For each of the following international offices and trade functions of the Department of Treasury and the Department of Agriculture please provided a detailed explanation of how each office and function is integral to its respective Department. Please also provide a detailed explanation of why exempting each office and function will not undermine any benefits from a combined trade agency.

**Treasury**

- a. **Office of Trade and Investment Policy** – The Purpose of the Office as described on the Treasury Department's website includes: "...the Office of Trade Finance and Investment Negotiations and the Office of International Trade. The offices work with other U.S. government agencies to determine U.S. policy on international trade and investment issues, including in various bilateral and multilateral negotiations. Areas of work include participation in committees of the Organization for Economic Cooperation and Development (OECD) to advance open investment policies abroad and to support multilateral rules to reduce export financing subsidies; the negotiation of trade and investment agreements, including free trade agreements and bilateral investment treaties (BITs), with the deputate taking either a lead or supporting role in various facets of these negotiations; reviewing and addressing contemporary trade and financial services issues, as well as participation in the World Trade Organization, including the Doha Development Round of global trade negotiations."
- b. **Office of International Monetary and Financial Policy** – The Purpose of the Office as described on the Treasury Department's website includes: "...Treasury's work to promote sound international regulatory policy practices, support financial stability, and develop international economic policy engagement and coordination in the [International Monetary Fund](#), the [Group of 7/8](#) and the [Group of 20](#) Ministerial and other efforts. The group also leads the coordination of U.S. participation in the Financial Stability Board, and other various bilateral financial and regulatory dialogues. The group advises on currency legislation issues, prepares Treasury's [Semi-annual Report on International Economic and Exchange Rate Policies](#), and analyzes and reports on world economic developments. Other responsibilities

include administering the Exchange Stabilization Fund and Treasury International Capital data, and liaising with the Federal Reserve.”

- c. **Office of Development Policy and Debt** – The Purpose of the Office as described on the Treasury Department’s website includes: “...The Office of Development Policy and Debt leads the U.S. government’s efforts to promote economic growth and poverty reduction in developing countries through engagement with the multilateral development banks, including the World Bank and the regional development banks. The office works with the U.S. Congress and other government agencies to secure U.S. funding commitments to the multilateral development banks. The office also advises on potential reforms and innovative financing proposals for development, and formulates the U.S. position on issues coming before the Paris Club, an informal group of creditors who seek coordinated and sustainable solutions to payment difficulties for debtor countries.
- d. **Office of East Asia** – The Purpose of the Office as described on the Treasury Department’s website includes: “...The office’s primary objectives include promoting strong, balanced, and sustainable growth in the region; advancing policy measures that support open trade and investment; encouraging the development of strong financial systems; and ensuring that all countries in the region fully participate in systems for global economic cooperation. It also plays a significant role in managing the U.S.-China Strategic and Economic Dialogue and U.S. engagement with Asian regional initiatives.”
- e. **Office of Investment Security** – The Purpose of the Office as described on the Treasury Department’s website includes: “The deputate is responsible for the day-to-day implementation of Treasury’s responsibilities as Chair of the Committee on Foreign Investment in the United States (“CFIUS”). A 16-member interagency committee representing the broad spectrum of security and economic agencies, CFIUS reviews certain foreign investments in the United States to identify and address the effects of the transactions on national security, according to a process specified in statute and regulation. The process focuses solely on national security concerns within the U.S.’s overall open investment policy, and it underwent substantial reforms through legislation enacted in 2007 and regulations promulgated in 2008. The deputate also leads Treasury’s open investment initiatives and dialogues with other countries, including China and the European Union, to promote open investment policies and discourage foreign barriers to U.S. investment.”
- f. **Office of South and Southeast Asia** – The Purpose of the Office as described on the Treasury Department’s website includes: “promoting U.S. policies and fostering growth, financial stability and poverty reduction in the region. Additionally, the office ensures U.S. interests are reflected in the regional activities of international financial institutions such as the International Monetary Fund, the World Bank and the Asian Development Bank. The office also takes the lead on all issues related to India, including representing the United States in the new U.S.-India Economic and

**Financial Partnership, and has responsibility for Treasury's engagement with the Asia Pacific Economic Cooperation (APEC) forum and Association of South East Asian Nations (ASEAN)."**

**Agriculture**

- g. **Foreign Agriculture Service** – The purpose and some of the divisions involved in this office as described on the Department's website include: "The Foreign Agricultural Service (FAS) links U.S. agriculture to the world to enhance export opportunities and global food security. In addition to its Washington, D.C. staff, FAS has a global network of 98 offices covering 162 countries. These offices are staffed by agricultural attachés and locally hired staff who are the eyes, ears, and voice for U.S. agriculture around the world. FAS staff identify problems, provide practical solutions, and work to advance opportunities for U.S. agriculture and support U.S. foreign policy around the globe.

Please provide a detailed explanation of how each function of the Foreign Agriculture Services identified below, as taken from the Department's website, is integral to the Department. Please also provide a detailed explanation of why exempting each function will not undermine any benefits from a combined trade agency.

- i) **Trade Policy:** FAS expands and maintains access to foreign markets for U.S. agricultural products by removing trade barriers and enforcing U.S. rights under existing trade agreements. FAS works with foreign governments, international organizations, and the Office of the U.S. Trade Representative to establish international standards and rules to improve accountability and predictability for agricultural trade.
- ii) **Market Development and Export Assistance:** FAS partners with 75 cooperator groups representing a cross-section of the U.S. food and agricultural industry and manages a toolkit of market development programs to help U.S. exporters develop and maintain markets for hundreds of products. FAS also supports U.S. agricultural exporters through export credit guarantee programs and other types of assistance.
- iii) **Data and Analysis** – FAS's network of global contacts and long-standing relationships with international groups contribute to the agency's unique market intelligence capacity. FAS analysts provide objective intelligence on foreign market opportunities, prepare production forecasts, assess export marketing opportunities, and track changes in policies affecting U.S. agricultural exports and imports.
- iv) **International Development** – FAS leads USDA's efforts to help developing countries improve their agricultural systems and build their trade capacity. FAS also partners with the U.S. Agency for International Development to administer

U.S. food aid programs, helping people in need around the world. FAS's non-emergency food aid programs help meet recipients' nutritional needs and also support agricultural development and education.

- h. **Office of Agreements and Scientific Affairs** (OASA) – from website: “OASA works to preserve and expand access to foreign markets for U.S. food and agricultural products by promoting an open, rules-based global trading system. OASA leads USDA in negotiation, monitoring, and enforcement of trade agreements. OASA advises senior officials on strategies to prevent and address barriers to U.S. agricultural exports. Areas of focus include sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT), and biotechnology and other emerging technologies. OASA coordinates USDA's participation in the World Trade Organization and other international organizations.”
- i. **Office of Country and Regional Affairs** (OCRA) – from website: “OCRA provides strategic leadership and focused analysis on key countries and regions of the world to advance consistent and mutually-reinforcing strategies for U.S. agricultural, trade policy, foreign policy and national security interests.”
- j. **Office of Global Analysis** (OGA) – from website: “OGA focuses on cross-cutting analysis to support USDA's trade agenda and develops and maintains USDA's agricultural production, supply and demand data.”
- k. **Office of Trade Programs** (OTP) – from website: “OTP administers programs that support marketing efforts, especially those carried out by the U.S. private sector, including the Market Access Program, the Foreign Market Development program, Technical Assistance for Specialty Crops, and the Quality Samples Program. OTP also administers the export credit guarantee and Dairy Export Incentive programs. Import programs include those for sugar, dairy and trade assistance.”
- l. **Office of Foreign Service Operations** (OFSO) – from website: “OSFO supports FAS foreign service officers and staff stationed in posts around the world. This includes logistic and administrative support as well as foreign travel coordination and management of the Foreign Service personnel system.”
- m. **Foreign Agriculture Service Foreign Offices** – from website: “FAS staffs 100 offices in 80 countries around the world. FAS Foreign Service Officers (FSO) and Locally-Employed Staff (LES) — while not maintaining a physical presence — also monitor and report on the agricultural trade matters of an additional 89 countries.”

As I noted in my previous submission to the Committee, the President requested in January 2012 that Congress revive the authority of previous Presidents to submit proposals to reorganize Executive Branch departments. He stated publicly that his first proposed use of that authority was consolidating six agencies primarily responsible for business competitiveness and exports into one new Department with the dedicated mission to help American businesses grow, hire, and thrive in the global economy.

The President's proposal was consistent with the recommendation of the Government Reform for Competitiveness and Innovation Initiative, which the President established in March 2011. The Initiative concluded that the international trade functions of the Departments of the Treasury and Agriculture were integral to the Departments and thus were not included in its recommendation. I am not in a position to address each of the individual offices and trade functions within the Departments of the Treasury and Agriculture referenced in your question. Nonetheless, I understand that the reorganization authority requested by the President would require Congress to vote on each specific proposal put forth by the Administration. Accordingly, if the President is granted such authority, I expect the Administration would consult closely with Members of Congress about specific proposals to reorganize Executive Branch departments and agencies, including the one referenced above.

**Question 39:**

**In response to a question I asked regarding the Administration's proposed reorganization of the trade agencies you noted that the President requested legislation from Congress to grant him the authority to reorganize Executive Branch departments. In your response you wrote "The proposed legislation would require that any reorganization plan submitted to Congress would reduce the size of government or would save money." Please answer each of the following questions separately:**

- a. **Do you agree that under the terms of the legislation the President requested granting reorganization authority that the President could offer a proposal that reduced the number of agencies that work on trade could but could still cost more to the taxpayers than the aggregate cost of the respective agencies and offices that the proposal combined?**
- b. **Do you agree that any effort to reorganize and consolidate government agencies should reduce costs to the U.S. taxpayers? Do you agree that any such plan that increases government spending rather than reducing spending would fail the taxpayers?**

On January 13, 2012, the President asked Congress to revive the same reorganization authority that it has granted to previous Presidents. The same day, the government's Chief Performance Officer spoke publicly about the requested legislation and stated: "I think we would all agree we're at a point where we need to make sure that every taxpayer dollar is well spent. That's a bipartisan belief, and I think we can all believe that making government operations leaner, smarter, more efficient is essential. And consolidation authority is a very important tool for ensuring that we achieve a smarter, leaner government." I agree with those sentiments.

In addition, I understand that the reorganization authority requested by the President would require Congress to vote on each specific proposal put forth by the Administration. In other words, Congress would retain the authority to make its own judgment about whether a particular proposal serves the best interests of the taxpayers.

**Question 40:**

**As part of the fiscal year 2013 Budget and as part of deficit reduction talks, the Obama Administration has proposed applying “a single blended matching rate to Medicaid and CHIP” saving anywhere between \$18 and 100 billion over 10 years. In December, the Administration reversed its position on the blended rate, and the only rationale offered was the Supreme Court decision that made the Medicaid expansion voluntary for the states. While states now have the option, rather than the mandatory requirement, to expand Medicaid, many worry that the Administration’s policy shift does not eliminate the long term financial risks to the States should they accept the Medicaid expansions. States should be aware that when fiscal realities later dictate cuts to the Medicaid program, they may be left to finance a larger share of the Medicaid expansions. I assume that you were involved in the development of the blended rate policy either at OMB or at the White House. To better understand the potential future risks to the States, please provide the Committee with the detailed specifications of the Administration’s fiscal year 2013 blended rate proposal and how it saved \$18 billion, or as the Administration proposed during the deficit reduction talks, \$100 billion.**

The blended match rate proposal would simplify the multiple matching rates in Medicaid and the Children’s Health Insurance Program (CHIP) and reduce administrative costs to States and the Federal government. However, as the Department of Health and Human Services indicated in December guidance, the Supreme Court decision has made the higher matching rates available in the Affordable Care Act for the new groups covered even more important to incentivize states to expand Medicaid coverage. We continue to seek efficiencies and identify opportunities to reduce waste, fraud, and abuse in Medicaid, and want to work with Congress, states, and stakeholders to achieve these goals while expanding access to affordable health care.

**Question 41:**

**As you know, Medicaid consumes the largest health-related share of federal revenues and federal spending as a share of the economy is set to grow by 37 percent over the next 10 years. Clearly, Medicaid – like our other entitlement programs – must be reformed if we are to make a meaningful impact on our debt and deficit problems. You were Deputy Director of the Office of Management and Budget when President Clinton proposed Medicaid per capita caps, and I presume you were involved in the development of that policy. To quote the former Secretary of Health and Human Service when she testified in this Committee back in March of 1997, per capita caps mean “there are absolutely no incentives for States to deny coverage to a needy individual, or to a family...It is a sensible way to make sure that people who need Medicaid are able to receive it.” Given the need to address health care entitlement spending and the bipartisan history behind Medicaid per capita caps, would you work with us on developing the details of this proposal to ensure we enact reforms that both protect taxpayers and patients?**

I support efforts to find ways to improve care coordination, reduce fraud, and make Medicaid operate more efficiently. However, we must be careful to ensure that savings arise from program

improvements and not from shifting costs to states or beneficiaries or from exposing them to more risk.

**Question 42:**

**Two weeks ago, your colleague at the White House, Gene Sperling, said, “We are not willing to accept even the Medicaid savings that we had once put on the table... Medicaid savings, Medicaid cuts, for this administration, are not on the table...” But then just last Friday, Acting CMS Administrator Marilyn Tavenner responded to a letter stating “...we continue to welcome collaboration with Congress, states, and stakeholders regarding other areas of potential savings in the Medicaid program.” Given these conflicting positions from officials in the Administration, I am interested to learn your thoughts on whether we should address the \$4.4 trillion projected to be spent on Medicaid over the next decade. This spending is a substantial contributor to the federal debt. Would you plan to address it, if confirmed as Treasury Secretary?**

The Administration believes that it is important to find efficiencies in health spending so these programs provide their enrollees with higher quality care at a lower cost.

**Question 43:**

**Throughout deficit reduction negotiations with Speaker Boehner, the President supported, and then apparently walked away from supporting an increase in the eligibility age for Medicare to 67 years of age. Can you please definitively state what the Administration’s position is on this policy?**

The Administration does not support raising the Medicare eligibility age.

**Question 44:**

**In the President’s 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed to reduce payments to rural hospitals by \$6 billion. Does the Administration continue to support these policies? If not, where else would you seek reductions in Medicare spending?**

The Administration included targeted reductions in payments to critical access hospitals in the FY 2013 Budget. This Budget proposed a range of additional measures to increase the efficiency of Medicare and ensure its sustainability for future seniors.

**Question 45:**

**In the President’s 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed a 15% surcharge on Part B premiums for new beneficiaries that purchase first-dollar Medigap coverage. Does the Administration still support this proposal? If not, what variables exist that would cause you to reverse your position?**

The President's annual Budget reflects the President's policy priorities, and this proposal appeared in the Administration's FY 2013 Budget. The Administration's FY 2014 Budget has not yet been released; if I am confirmed, I look forward to addressing this and related questions once that Budget has been released.

**Question 46:**

**In the President's 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed increasing the income-related premiums under Medicare Parts B and D. Does the Administration still support this proposal? If not, what variables exist that would cause you to reverse your position?**

Please see my answer to Question 45.

**Question 47:**

**In the President's 2011 Plan for Economic Growth and Deficit Reduction, the Administration proposed an increased Medicare Part B deductible for Medicare beneficiaries. Does the Administration still support this proposal? If not, what variables exist that would cause you to reverse your position?**

The President's annual Budget reflects the President's policy priorities, and the Part B deductible increase, which only applies to new beneficiaries, appeared in the Administration's FY 2013 Budget. The Administration's FY 2014 Budget has not yet been released; if confirmed, I look forward to addressing this and related questions once that budget has been released.

**Question 48:**

**The Medicare Trustees have determined that the Hospital Insurance (HI) Trust Fund will be insolvent in 2024. Since President Obama took office in 2009, the Medicare "45% trigger" has been tripped each year and yet the Administration has not submitted a proposal (as required by law) to Congress to reduce spending. Why is that and when will the Administration begin to follow the letter of the law?**

The Medicare Modernization Act requires that the President submit legislation to Congress in the event a Medicare Funding Warning is triggered. My understanding is that the Bush Administration issued a signing statement concluding that this is inconsistent with the Recommendations Clause of the Constitution, and the Obama Administration came to the same conclusion. After I became Director of OMB in late 2010, I did not revisit this position, and OMB reiterated it in a 2013 letter.

I understand that the most recent Medicare Trustees Report shows that, while general revenues were projected to exceed the threshold that triggers the warning in 2012, general revenues are projected to fall below that threshold in every year from 2013 to after 2020. In other words, my understanding is that a warning is not projected in 2013 under current law, even absent legislative changes in Medicare.

The President takes Medicare's financing problems seriously and proposed about \$300 billion in Medicare savings in the last Budget. The Administration is committed to making Medicare more efficient and ensuring its long-run solvency.

**Question 49:**

**As Treasury Secretary you will be responsible for reviewing and approving all regulations issued by the Department. One of the areas where there have been significant questions in this Administration has been about the economic impact analysis done on regulations which are deemed to be "economically significant" meaning that their impact will be greater than \$100 million. Several of the recent economically significant regulations issued by Treasury have not contained supportable or verifiable economic impact statements. If confirmed, can you explain to me how you will validate the economic analysis contained in the regulations you approve out of the Treasury Department and will you promise me to provide this Committee with all of the information we request when attempting to ascertain the validity of the economic analyses contained in proposed and final regulations?**

I understand that, in the past year, OMB has designated two Treasury regulations as economically significant: Treasury's Interim Rule on Guarantees for Bonds Issued for Community or Economic Development Purposes and Treasury's Final Rule on Assessment of Fees for Large Bank Holding Companies and Nonbank Financial Companies Supervised by the Federal Reserve to Cover the Expenses of the Financial Research Fund. Each rule included a regulatory impact analysis that contained a detailed discussion of the economic impact of the rule, including quantitative and qualitative costs and benefits, where applicable. If confirmed, I would work to provide information requested by the Committee in a timely manner.

**Question 50:**

**The Treasury Department, in coordination with the Department of Health and Human Services (HHS), has an important role in implementing the Patient Protection and Affordable Care Act (PPACA). In fact some of the most critical aspects of the law will be implemented through the Internal Revenue Service (IRS), such as advance premium tax credits (APTC), employer mandate, individual mandate, medical device tax, and health insurance tax.**

**The Administration has made claims that eligibility determinations will be made in real time through the federal data services hub by facilitating the exchange of data between IRS, Homeland Security, the Social Security Administration (SSA), and possibly other agencies.**

**If confirmed, can you please commit to having the Department and/or IRS respond to the following questions?**

- a. **Is the Department a part of the inter-departmental working group, tasked with coordinating PPACA implementation?**

- b. Has the IRS completed service level agreements with HHS to ensure the exchange and data hub will be able to provide a real time eligibility determination?
  - c. What assurances can you provide regarding the security requirements placed on agencies and states accessing personal IRS data to make eligibility determinations? Please provide a specific description of how those security protocols meet the requirements of Section 6103 of the Internal Revenue Code?

Yes. If confirmed, I would be happy to work with this Committee in responding to these questions.

**Question 51:**

A recent report by the Congressional Budget Office (CBO) states that in 2021 the APTC will be the largest refundable tax credit and of the \$213 billion that will be spent through tax credits, \$110 billion will be attributed to the APTC. The sheer size of the APTC raises questions about the possibility of fraud or abuse.

- a. If confirmed, how will you ensure that the Treasury Department will put in place protocols at the IRS, the federal data services hub and the exchange to ensure individuals are appropriately accessing APTC?

While I have not been directly involved in developing the procedures for administering the advance payments of the premium tax credit, my understanding is that the IRS and the Department of Health and Human Services are working in close cooperation to ensure that appropriate protocols are in place to administer the advance payments. I look forward to working with the Committee on this issue.

- b. If confirmed, can you please commit to having the Department provide a detailed briefing to describe what protocols are currently in place and any changes that will improve data security at the IRS under your leadership?

Yes.

**Question 52:**

The Treasury Inspector General for Tax Administration (TIGTA) reported that the IRS is undergoing a new income and family seize verification project.

If confirmed, can you commit to providing a briefing describing the project, any findings that have resulted from the project, how the project will be used in the implementation of APTC under PPACA, and how it will improve capabilities at IRS as it relates to verifying income and family size?

Yes.

**Question 53:**

I have concerns regarding the abuse of APTC. If confirmed, can you commit to having the Treasury Department provide a briefing on the following program integrity questions:

- a. Whether they have reviewed, commissioned or completed any analysis showing the number of individuals that will be eligible for APTC, but who are not required to file a tax return.
- b. How the Department will ensure APTCs are provided appropriately, especially for individuals that may not file because their income is below the filing threshold, but have a total household income that makes them ineligible for Medicaid and therefore eligible for an APTC.
- c. How the IRS will determine eligibility for individuals that apply for an APTC but have not filed a return, regardless of the reason.
- d. Whether the Department has conducted an analysis on the population between 100% and 400% of FPL to determine the number of applications they expect to receive for which no tax return is available to determine eligibility.
- e. A description of the process in place at the IRS to review applicant responses contesting the eligibility determination made by the IRS.
- f. Whether the IRS is coordinating with HHS to ensure that eligibility criteria for APTC are the same for cost-sharing reduction (CSR) subsidies?
- g. Provide a detailed timeline highlighting milestones that the IRS will work to meet to ensure the eligibility determination system, in coordination with state, partner and federal exchanges, will be ready by October 1, 2013.

Yes.

**Question 54:**

In a letter to Secretary Geithner, I raised concerns regarding the Department's interpretation of PPACA as it relates to APTC availability through the federally-facilitated exchange. The statute clearly states that subsidies are only available to individuals in state-based exchanges, established under Section 1311 of PPACA. Do you agree with this interpretation of the law, and if so, please provide a legal analysis describing the specific provision of law granting the Treasury Department the authority to make APTC subsidies available through the federal exchange.

I believe that Treasury has a responsibility to implement the laws passed by Congress in a careful and thoughtful manner. My understanding is that for this regulation, Treasury's Office of Tax

Policy (OTP) and the Internal Revenue Service (IRS) followed their standard process for drafting, approving, and publishing tax regulations generally. I also understand that the public submitted numerous written and oral comments in response to the proposed regulation; that both OTP and IRS reviewed each comment carefully; that for this issue, OTP and IRS concluded that the statute should be interpreted as in the proposed regulation; and that the final regulations reflect this view.

**Question 55:**

**In a letter to the President I raised concerns with the lobbying efforts of multiemployer plan requesting access to APTC for collectively bargained plans, mostly because of their concerns about the impact of PPACA on the cost of insurance. Is it your view that multiemployer plans are not eligible for APTC because they will be under the definition of minimum essential coverage if they plans meets affordability and minimum value standards? If not, please provide a legal analysis outlining how collectively bargained plans may access APTC, when the law clearly states that APTC is only available to individuals no eligible for minimum essential coverage from a source other than the individual health insurance market.**

The Administration is continuing to issue regulations and other guidance to help employers, workers, and others implement the Affordable Care Act. As Treasury responds to further questions regarding the implementation of health reform, I can assure you that any regulations will continue to faithfully reflect the law, as enacted by Congress.

**Question 56:**

**The annual fee on health insurance providers contained in the Patient Protection and Affordable Care Act (PPACA) is unusual in that it raises a set amount of revenue that is then apportioned amongst that industry. Discussions with various members reveals that such revenue was intended to cover the federal costs of both states' Medicaid expansions as well as Exchange subsidies and tax credits. Will you support an annual study which calculates these federal costs and then compares such costs to the revenue raised from the fee?**

Under the Affordable Care Act, the amount of the fee to be imposed on entities that provide health insurance is set forth in the statute. Although I have not yet had an opportunity to fully develop a policy position on the specific matter referenced in your question, I look forward to working with the Congress on this issue.

**Question 57:**

**There is an annual fee on health insurance providers contained in the Patient Protection and Affordable Care Act (PPACA). Although the fee technically falls on insurers, the Joint Committee on Taxation has determined that "a very large portion of the fee" will be "borne by consumers". Will you support a study on the impact this fee has on public**

**education institutions and as well as students obtaining health insurance through their university?**

The fee is imposed on entities that are in the business of providing health insurance, and those entities are responsible for paying the fee. Although I have not yet had an opportunity to fully develop a policy position on the specific matter referenced in your question, if confirmed, I look forward to working with the Congress on this issue.

**Question 58:**

**Prior to the enactment of the bipartisan tax relief plans in 2001 and 2003, Federal taxes as a percentage of GDP were at record levels. In 2000, CBO reported Federal taxes at 20.9% of GDP.**

**Even after the bipartisan tax relief is fully in effect, taxes will remain at or near the historical average percent of GDP. Over the last few decades, taxes have averaged around 18 percent of GDP.**

**On August 14, 2008, Jason Furman and Austan Goolsbee, two senior advisors to then-Senator Obama, wrote an op-ed in the Wall Street Journal. Among other things, Furman and Goolsbee indicated that, if elected, Obama's fiscal policy would leave the historic revenue take in place:**

**Overall, Sen. Obama's middle-class tax cuts are larger than his partial rollbacks for families earning over \$250,000, making the proposal as a whole a net tax cut and reducing revenues to less than 18.2% of GDP – the level of taxes that prevailed under President Reagan.**

**On November 25, 2012, Warren Buffett, writing in the New York Times, said that "Our government's goal should be to bring in revenues of 18.5 percent of GDP."**

- a. **Do you agree with Messrs. Furman and Goolsbess that the federal government's revenues should be "less than 18.2% of GDP"?**
- b. **Or do you agree with Mr. Buffett that the federal government's revenues should be "18.5% of GDP"?**
- c. **What level of revenues as a percent of GDP should the federal government receive?**
- d. **What is the position of the Obama Administration as to what federal government revenues should be as a percentage of GDP?**

I believe, in the context of a sustainable fiscal policy, that the federal government must collect a level of taxes sufficient to support the services the public expects us to provide in order to ensure our continued national security and general welfare. Given projected demographic and economic trends, this will require a revenue-to-GDP ratio that is higher than 18.5 percent. Under

the Administration's FY 2013 Budget policies, which I believe to be fiscally responsible, federal receipts would rise to 19.2 percent of GDP by 2017 and to 20.0 percent by 2022.

**Question 59:**

**On January 31, 2013, it was widely reported that John Engler, president of the Business Round Table, said that in meetings with business leaders in December 2012, President Obama indicated his support for moving to a territorial tax system.**

**Later that day, a spokesman for President Obama stated that the President does not support a move to a pure territorial tax system.**

**Furthermore, the President's Framework for Business Tax Reform (February 2012) stated that "Although the U.S. tax system is often described as 'worldwide' because it taxes U.S. companies on profits earned abroad, opportunities for deferral can make it effectively much closer to a territorial system ... for many companies."**

**I am unaware of any significant proposals to enact a pure territorial tax regime in the United States, so the statement from the President's spokesman perhaps did not clarify much.**

- a. **The Framework almost sounds like the current system is too territorial, and needs to be more worldwide than it currently is. Is that the President's position?**

The President's Framework for Business Tax Reform supports a hybrid approach that reduces incentives for companies to shift profits and investment to low-tax countries, puts the United States on a more level playing field with our international competitors, and helps end the global race to the bottom on corporate tax rates—while also making American companies more competitive globally. There is considerable debate as to how to reform the international tax system, but I believe that there is common ground on this subject, including a mutual concern about preserving the U.S. tax base by reducing incentives that encourage the shifting of investment and income overseas, and making the United States more competitive globally. I look forward to working with the Committee on a bipartisan basis to develop approaches to international taxation that will ensure the United States will retain and attract high-quality jobs.

- b. **Could you please clarify the President's position in this regard?**

Please see my answer to Question 59(a).

- c. **The Framework proposed requiring companies to pay a minimum tax on overseas profits. Can you provide more details on the proposed minimum tax? Would this be a new category of Subpart F income? If such amounts are subsequently distributed to the US parent, would section 959 apply so as to exclude those amounts from gross income?**

**Or would section 959 somehow only partially apply? Or would there be a credit against the combined total of foreign and US taxes already paid?**

The President's Framework is intended to lay the foundation for a dialogue with Congress and stakeholders on tax reform. I believe that there is common ground that could advance efforts to reform the current U.S. international tax rules, and if confirmed, I would commit to working with Congress and stakeholders to enact tax reform. This would necessarily entail a dialogue on the various measures that would best strengthen the international tax system in a manner consistent with the principles and goals set forth in the Framework.

**d. When can we anticipate a more robust proposal from the President on international tax reform?**

The President's Framework is intended to lay the foundation for a dialogue with Congress and stakeholders on tax reform. I understand that the Administration has been engaged in an ongoing process, consulting with stakeholders, tax policy experts, members of Congress, and other policymakers. If confirmed, I would look forward to working with you and other Members of Congress on how best to continue laying the necessary foundation for reform, and on next steps to enable us to advance the reform process.

**Question 60:**

**President Obama says he wants permanent extension of the section 41 R&D tax credit. So does Chairman Baucus. And so do I. How do you propose we make this a reality?**

The Administration strongly supports the continuation of the Research and Experimentation (R&E) credit and has proposed to expand the R&E credit and make it permanent. If confirmed, I pledge to work with the Committee to make the R&E credit a permanent and effective incentive for research and innovation.

**Question 61:**

**At least since 2005, Treasury has every year put on its priority guidance plan to issue guidance concerning gross receipts in the context of intra-group transactions. Guidance was publicly issued in February 2006. There was a significant court decision in this area: *Proctor & Gamble v. United States* (S.D. Ohio June 25, 2010). But throughout this period, the Treasury/IRS Priority Guidance Plan statement on gross receipts guidance remained the same.**

**Could you assure me that, in an effort to ease administration for all parties concerned, you, if you are approved as Secretary of the Treasury, will attempt to clarify this area of the law, and that you will report back to me in 2013 as to your clarification?**

I am not yet familiar with this issue, but if confirmed, I will support Treasury and the IRS's efforts to clarify this issue as necessary.

**Question 62:**

**ASC via amended return:** The GAO in 2009 recommended the following: “[T]he Secretary of the Treasury should take the following … action[]: Modify credit regulations to permit taxpayers to elect any of the computational methods prescribed in the IRC in the first credit claim that they make for a given tax year, regardless of whether that claim is made on an original or amended tax return.” Obviously, the Secretary must consider the statutory language at section 41(c)(5)(C) and there could be no electing of the traditional credit in a later year if ASC had been elected in an earlier year unless that ASC election had been “revoked with the consent of the Secretary.” Keeping the statutory language in mind, as well as section 7805(b) (to the extent applicable), can you assure me, that if you are approved as Secretary of the Treasury, you will consider this GAO recommendation seriously and report back to me in 2013?

The Administration strongly supports the continuation of the R&E credit and has proposed to expand the R&E credit and make it permanent. If confirmed, I will consider the GAO’s recommendation regarding the ASC election as Treasury considers ways to improve the effectiveness of the credit.

**Question 63:**

**GROWTH Act:** Chairman Baucus and I have co-sponsored legislation getting rid of the traditional credit and permanently extending the ASC at a 20% rate. If that were enacted, would the problems cited at 1, 3, and 4 *supra* go away?

Currently, a taxpayer must choose between using an outdated formula for calculating the R&E credit that provides a 20-percent credit rate for research spending over a certain base amount related to the business’s historical research intensity and the much simpler ASC that provides a 14-percent credit in excess of a base amount based on its recent research spending. Increasing the rate of the ASC to 17 percent would provide an improved incentive to increase research and would make the ASC a more attractive alternative. Because the ASC base is updated annually, the ASC more accurately reflects the business’s recent research experience and simplifies the R&E credit’s computation. If confirmed, I look forward to working with you to increase the ASC and make the entire R&E credit permanent.

**Question 64:**

**Allocation of Group Credit Amongst Members of a Controlled Group:** The R&D credit is calculated on the basis of a controlled group of taxpayers. If one corporation owns more than 50 percent of another corporation, those two corporations would be in the same controlled group. However, two such corporations would not generally report on the same consolidated return unless the one corporation owned 80 percent or more of the other corporation. So, if two corporations are in the same controlled group, but report on

separate returns, the one group credit must be allocated between the two corporations. Treasury Regulation section 1.41-6 provides rules on how to allocate the group credit.

The President signed ATRA in early January 2013. ATRA overrides the 1.41-6 rules on allocation of the group credit. However, I can foresee that there might be taxpayer confusion over the proper allocation of the ATRA group credit allocation rules and whether there is continuing vitality to the 1.41-6 rules.

Can you assure me that you will issue guidance in 2013 on the proper allocation of a group credit?

If confirmed, I will inquire about pending guidance reflecting the change made by ATRA to the group credit allocation rules, and I will work to ensure that any necessary guidance is issued in a timely manner.

**Question 65:**

**The Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), imposes a tax on foreign persons for their dispositions of interests in United States real property. In your view, has FIRPTA actually imposed this tax on foreign persons or has it mainly created procedural hoops that foreign persons must navigate to avoid paying this tax?**

I understand that FIRPTA generally subjects foreign investors' gains from the sale of U.S. real property to the same net-basis taxation that is imposed on U.S. taxpayers. I have not yet had an opportunity to develop a position on the operation of the statute, but, if confirmed, I look forward to working with the Committee to create a fair and efficient tax code so that foreign and domestic investors in U.S. real property are on a level playing field.

**Question 66:**

**The Treasury Department touts non-risk adjusted returns on bailouts made during the financial crisis as “significant profits to taxpayers.” Meanwhile, the administration continues to press for a “financial crisis responsibility fee,” which would impose a tax on large financial firms which ultimately would get passed on to customers and shareholders (including retirees and pension funds), many of whom were not responsible for undertaking risks that contributed to the crisis. The President said, back in January of 2010, that his determination to impose a “responsibility” tax on financial institutions “...is only heightened when I see reports of massive profits and obscene bonuses at the very firms who owe their continued existence to the American people...”**

**a. Do you continue to support a financial crisis responsibility tax?**

Yes. The Administration continues to support the Financial Crisis Responsibility Fee and believes that it is the best approach to recouping some of the costs imposed on the economy by financial firms while, at the same time, discouraging risky behavior.

**b. Do you believe that any such tax should apply to Fannie Mae and Freddie Mac; to Ally Bank; to General Motors; or to money market mutual funds?**

I understand that the fee would not apply to Fannie Mae and Freddie Mac, which are in government conservatorship. Similarly, the fee would not apply to money market mutual funds since they are entities that essentially pass all their income through to fund holders.

In general, the fee would apply to any institutions that qualify as bank holding companies, thrift holding companies, certain broker-dealers, companies that control certain broker-dealers, and insured depository institutions with assets in excess of \$50 billion. Firms with worldwide-consolidated assets of less than \$50 billion would not be subject to the fee for the period when their assets are below this threshold. U.S. subsidiaries of foreign firms that fall into these categories and that have U.S. assets in excess of \$50 billion also would be covered.

**c. Do you believe that the financial crisis responsibility tax would represent a fee (tax) on current market participants as punishment (responsibility) for actions of other past market participants?**

My understanding is that current companies subject to the fee benefited from government actions that stabilized the economy. The companies that would be subject to the fee include companies owning or controlling bank holding companies, thrift holding companies, certain broker-dealers, and insured depository institutions as of January 14, 2010. This was done to ensure that financial firms that benefited from the TARP contributed to the financing of the extraordinary efforts to rescue the economy.

**d. Do you believe that a financial crisis responsibility tax should be levied on individuals who were executives at large financial institutions at the time the financial crisis ensued and carried on, and who received bonuses?**

After consideration of a range of design options for this proposal, the Administration determined that the financial institutions that benefitted from the extraordinary assistance provided by the Federal government should be subject to this fee.

**Question 67:**

You have identified that there are needs for individual tax reform and corporate tax reform, and have stated that "...the primary goal in business corporate tax reform is to have the tax code be simplified and to be consistent with a more robust investment environment, particularly as we are in a competitive environment with other countries. I think it can be done in a revenue-neutral way. I don't believe we have the ability to raise the revenue that we need to deal with our fiscal problem and have it cost revenue as we go through business tax reform."

**a. Do you believe that corporate tax reform ought to be done in a revenue-neutral fashion, in the interest of global competitiveness, while individual tax reform, which**

**would influence taxes paid by flow-through business entities, ought not to be revenue neutral?**

I believe that our fiscal choices must be responsible, so that we raise enough in revenues to pay for the services the public expects us to provide in order to ensure our continued national security and general welfare. We must keep taxes as low as possible, but we must also put the federal budget on a sustainable course. A fiscally responsible level of revenues – as part of a balanced deficit reduction package that includes significant spending cuts – can help stabilize our debt as a share of the economy.

- b. If so, do you believe that corporations require lower tax rates in order to boost their competitiveness but the competitiveness of flow-through businesses is either not influenced by their tax rates or is less important than corporate competitiveness?**

As a result of a combination of a relatively narrow tax base and a high statutory tax rate, the U.S. corporate tax system is not as effective and efficient as it should be. The system distorts choices such as where to produce, what to invest in, how to finance a business, and what business form to use. And it does too little to encourage job creation and investment in the United States while allowing firms to benefit from incentives to locate production and shift profits overseas. That is why the President's Framework for Business Tax Reform would reform the business tax base to reduce distortions that hurt productivity and growth. It would also lower the statutory corporate tax rate to 28 percent, putting the United States in line with major competitor countries and encouraging greater investment in America.

- c. Do you have any concerns with discrepancies between corporate tax rates and tax rates applied to flow-through businesses? If so, what are the concerns and how would you ease those concerns. If not, why not?**

There are a variety of concerns about differences between the taxation of corporations and the taxation of flow-through businesses. The relationship between taxes imposed on different types of business entities must be considered as part of comprehensive tax reform to ensure that the resulting system is as efficient and equitable as possible. If confirmed, I would look forward to working with the Committee on this important issue.

- d. The administration has, recently, referred to a small collection of alterations of specific, idiosyncratic elements of the tax code, such as changes in depreciation rules applied to commercial aircraft, as “tax reform.” This, to me, represents an exercise in creative license with respect to the term “tax reform” and suggests that there may be disagreements about what, exactly, different people mean by that term. How would you define “tax reform?”**

I think that tax reform is a term that is sufficiently expansive to encompass any number of related ideas that have at their core some notion of an improved tax system. Tax changes that are properly considered reforms should improve some aspect of the tax system, such as efficiency or equity or simplification.

- e. Related to part d. above, how would you define a tax “loophole” and please provide me with, given your definition, a list of the five largest loopholes in the personal-income tax code and a list of the five largest loopholes in the corporate-income tax code.

The term “loophole” is a non-technical term that can be used to mean a variety of different things. In the strictest sense, a loophole can be seen as a feature of the tax system that leads to outcomes that were unanticipated and are contrary to the intent of a tax provision. A more commonly used description would cover special tax benefits, many of which may be unjustified.

The President’s FY 2013 Budget makes a number of recommendations to tighten up tax rules by eliminating what many would call loopholes.

If confirmed, I look forward to working with the members of the Committee in developing a tax system that is simple, fair, and efficient.

**Question 68:**

**Do you believe that economic activity is invariant to tax rates on upper-income earners?**

In principle, there is a connection between marginal tax rates and economic activity. However, there is substantial evidence suggesting that cuts in top marginal rates at the levels currently in effect have only small effects on real activity, and that any such effects are outweighed by the costs of the higher deficits associated with these rates. I consider economic growth and efficiency, as well as fairness, as important components for the tax code.

**Question 69:**

**Your testimony before the Finance Committee identified that “The President says he thinks it should be 2:1, spending cuts to revenue.” However, the ratio seems to vary over time and circumstances. I also believe that you and others have suggested that somewhere around \$2.5 trillion of deficit reduction has already been put in place, though those numbers also vary significantly.**

- a. With respect to the administration’s views on any potential alteration of the upcoming so-called “sequester” spending reductions, does the administration believe that there ought to be an alteration such that 100% of the scheduled spending reductions are replaced with other spending reductions and even more tax hikes such that there is a 2:1 spending-cut to revenue-increase ratio?

The Administration supports a gradual and balanced approach to deficit reduction, replacing the sequester with deficit reduction that is supportive of our near-term economic recovery and long-term fiscal sustainability. I support the President’s long-stated approach to reach agreement on further balanced deficit reduction that avoids

sequestration. Sequestration is a blunt and indiscriminate approach to spending cuts that was never intended to be put into practice. It would have severe impacts across the government and impair its ability to provide the services the American people count on.

- b. **With respect to deficit and debt reduction, how much deficit and debt reduction has taken place to date (i.e., been realized), and how much represents promises of future spending reductions intended, but not required, to lead to deficit and debt reduction?**

The Administration and Congress have made substantial progress toward reducing the deficit over the past two years. As a share of the economy, the deficit has fallen from more than 10 percent at the height of the financial crisis to 7 percent in fiscal year 2012. Deficit reduction measures in the ATRA will lower the deficit-to-GDP ratio further by the end of this year. Looking forward, the President put forward a plan in the FY 2013 Budget that would bring total deficit reduction over the 10-year budget window to \$4 trillion, stabilizing the debt as a share of the economy before the end of the decade. \$2.5 trillion of this \$4 trillion has already been signed into law.

**Question 70:**

**Do you support increasing payroll taxes on income of a shareholder who provides substantial services to a professional service business organized as S corporations? If so, please explain why and, if so, do you believe the increased payroll tax should apply only to certain levels of income? If so, do you believe that any increased payroll tax payments should be accompanied by increased future benefits from the Social Security system?**

I understand that the Administration has not proposed such a change in any of its annual budgets. I have some familiarity with the arguments on both sides of the issue, but have not established a specific view. As an increasing number of business organizations, large as well as small, have organized themselves as pass-through entities, we need to consider to what extent this change might erode the tax base that supports Medicare and Social Security. The issue deserves further consideration, and I look forward to working with you and the Committee on any proposals you may consider in this area.

**Question 71:**

**You have repeatedly identified an ongoing need for federal “investments,” which always means more federal government spending. You have repeatedly identified an ongoing need for “infrastructure” investments, though I am never sure exactly what people mean when they say “infrastructure,” and definitions can, unfortunately, be wide-ranging, incomplete, and inclusive of spending on projects that have questionable financial and social returns. Recent proposals for a national infrastructure bank have vaguely defined infrastructure, and have included provisions allowing for such a “bank” to alter its definition of infrastructure whenever it desires.**

**As a result, the term infrastructure has virtually no meaning and could include almost anything from laying redundant fiber cables in areas not in need of them to turtle tunnels surrounding road or bike path construction. When you speak of investments in infrastructure, what precisely do you mean and how does your definition exclude things as not being infrastructure?**

Infrastructure comprises the facilities needed for the functioning of a community or society, and in practice supports the productive function of our economy in a competitive global environment. The President is committed to revitalizing America's infrastructure.

**Question 72:**

**Some are currently arguing that federal spending reductions scheduled to occur as a result of the so-called “sequester” will reduce the gross domestic product (GDP) and jobs in the near term; that GDP and jobs would fall by the same amounts if there were alterations to the sequester cuts such that there is an equal amount of federal spending reduction, but in different activities than those called for in the sequester as it currently stands; but that, somehow, negative effects of the sequester on GDP and jobs would be lower if the spending cuts called for by the sequester were replaced with a “balanced” (whatever that means) mix of tax hikes and other spending reductions.**

**a. Do you agree with that argument?**

The Administration supports a gradual and balanced approach to deficit reduction, replacing the indiscriminate cuts of the sequester with deficit reduction that is supportive of our near-term economic recovery and long-term fiscal sustainability. This requires consideration of both the composition and the timing of fiscal consolidation. First, spending cuts and revenue increases should be targeted so that they are most supportive of economic activity and growth. Second, the timing of fiscal consolidation should not impose further immediate and sharp cuts, as fiscal tightening, including that which is already occurring, should be phased in over time.

**b. If so, why do you believe that tax hikes and some spending cuts that somehow differ from those called for by the Budget Control Act of 2011 would somehow attenuate negative effects on GDP and jobs? If you do have such a belief, please provide economic analysis that supports your belief.**

The sharp and indiscriminate spending cuts in the sequestration frontload fiscal consolidation. An alternative approach commits to fiscal consolidation at a measured pace, achieving the same level of deficit reduction, but doing it in a way that is more supportive of economic growth in the near-term. This approach also acknowledges the fact that the components of deficit reduction can have different short-term multipliers, reflecting their differential impact on the economy, and many investments, such as education and infrastructure, have long-run benefits for economic growth.

- c. If you have the belief identified in b. and your analytical support relies on Keynesian multipliers, please identify whether you are relying on general tax and spending multipliers or unreliable and incredible sector-specific multipliers.

The argument is based on general multipliers used by the CBO and other budget analysts and researchers.

- d. If, as in c., you rely on Keynesian multipliers, please explain the mechanism you have in mind through which federal spending and/or tax changes lead to changes in GDP and employment, such as sticky prices, sticky wages, financial frictions, or other such rigidities in markets, and provide any evidence that you have consistent with those transmission mechanisms somehow leading to failures of markets to clear.

The general mechanisms underlying new Keynesian macroeconomics are widely documented and widely accepted in modern mainstream macroeconomics; these include not only economic rigidities and frictions, but also the presence of spillovers, externalities, and public goods that may be present in Classical economics.

**Question 73:**

Last May the Social Security Trustees reported that the Social Security Disability Trust Fund will be exhausted by 2016. When that happens, disability benefit payments will be reduced by 21% unless Congress acts. SSDI benefits are funded through payroll taxes, as are Social Security retirement benefits. Other than raising payroll taxes, or diverting payroll taxes from the retirement trust fund as Congress did in 1994, what do you recommend Congress do to shore up the SSDI trust fund and avoid a 21% cut in benefit payments?

The projected exhaustion of the DI Trust Fund requires attention and modernization to ensure that the disabled and those who may need the program in the future can continue to count on the benefits provided by disability insurance. In order to achieve this goal, the Administration has been looking at ways to improve the administration and performance of the program so that it is more efficient and better serves the needs of the disabled, now and in the future. If confirmed, I would look forward to working with the Committee on these reforms.

**Question 74:**

As a means to cut the deficit, President Obama has called for capping deductions in each of his previous budgets, as well as a way to help pay for health care reform. Specifically he asked for a 28% cap on all itemized deductions for upper income earners. This would include the charitable giving deduction. Now, many reports have come out showing any cap, cut, or limit to the charitable deduction would decrease giving. Reports examining a 28% cap found that it would result in a \$5.6 billion decline in charitable giving for one year, directly impacting charities on the ground. Furthermore, the Pease limitation on itemized is once again included in the tax code. Given this data, will the Administration

**call again for 28% cap? If so, what are your estimates of its impact— which ought to be even worse now that the difference between the highest rate and 28% has widened?**

I recognize the important role played by our nation’s charitable sector. Through our charities, millions of Americans join together, contributing funds and volunteer hours, to meet the needs of their communities. Charities provide healthcare, social services, and disaster assistance to those in need, among other things. They conserve our natural resources and expand the boundaries of our knowledge through scientific research. And they enrich our communities through education, athletics, and the arts.

Unlike some other proposals to curb tax expenditures, the Administration’s previous Budget proposal to limit the value of itemized deductions and certain other tax expenditures to 28 percent would have a modest impact on the incentive to make charitable gifts. This is because the tax incentive on the last dollar of giving potentially would be somewhat reduced but not eliminated. Moreover, only a small fraction of taxpayers – married couples with incomes in excess of \$250,000 and single taxpayers with incomes in excess of \$200,000 – would be affected by the proposal. Charitable giving by non-itemizers and taxpayers with incomes below these thresholds – the vast majority of donors – would not be affected by the proposal.

The Administration’s FY 2013 Budget proposal to limit the benefit of itemized deductions to 28 percent is intended to be an even-handed approach covering all itemized deductions and is not intended to single out the charitable sector. But the Administration is also looking forward to a broader dialogue about tax reform and as part of that discussion would be open to discussing alternative ways of treating charitable deductions to ensure that the incentive is cost effective and fair. If confirmed, I look forward to working with this Committee to ensure that our tax system is fair and efficient, and appropriately supports our charitable sector.

**Question 75:**

**Earlier this week the Joint Committee on Taxation released a report saying individuals donated almost \$218 billion in 2011, a four year high coming out of the Great Recession. For 2012, though preliminary, reports have estimated that giving increased to over \$230 billion, more than a 6% increase from 2011. And yet for 2013, the giving is only projected to increase 1.6%, a significant decline compared to the strong growth of previous years. In light of these numbers, does the Administration plan to propose in its budget another 28% cap on the charitable deduction, even though all the data suggests such a cap will lead to a decline in giving?**

The Administration’s FY 2013 Budget proposal to limit the benefit of itemized deductions to 28 percent is intended to be an even-handed approach covering all itemized deductions and is not intended to single out the charitable sector, which I strongly support. But the Administration is also looking forward to a broader dialogue about tax reform and as part of that discussion would be open to discussing alternative ways of treating charitable deductions to ensure that the incentive is cost effective and fair. The FY 2014 Budget has not yet been released, so I cannot speak to what may or may not be included therein.

**Question 76:**

We know that volunteers are often the backbone of charity. In October of 2011 this committee held a hearing on the tax treatment of charitable giving, and several of our witnesses noted that a decrease in charitable donations would cause a direct cut back in volunteers. Specifically, Brian Gallagher, President and CEO of United Way Worldwide said “The reason that charitable giving and private sector delivery of service is so efficient is that volunteers follow the money, and so you are leveraging somebody’s contribution.” So calling for a cut in the charitable deduction, as the President has done in all his last budgets, will drive less giving. But it will drive fewer volunteers. Please comment on the negative impact on volunteers of the President’s 28% proposal?

The Administration’s FY 2013 Budget proposal to limit the benefit of itemized deductions to 28 percent is intended to be an even-handed approach covering all itemized deductions and is not intended to single out the charitable sector, which I strongly support. I understand that the Administration’s proposal would have only a modest impact on charitable giving. But the Administration is also looking forward to a broader dialogue about tax reform and as part of that discussion would be open to discussing alternative ways of treating charitable deductions to ensure that the incentive is cost effective and fair. I look forward to working with this Committee to ensure that our tax system is fair and efficient, and appropriately supports our charitable sector.

**Question 77:**

The International Monetary Fund has suggested a globally-coordinated bank tax. Actually, the IMF has proposed two bank taxes – a so-called Financial Stability Contribution, mainly based on a bank’s balance sheets, to help pay for the cost of winding down troubled financial institutions. The other proposed IMF bank tax would be a “Financial Activities Tax”, levied on the sum of profits and compensation of financial institutions, to help finance the broader costs of a financial crisis.

A recent UK Chancellor of the Exchequer, Mr. Alistair Darling, welcomed these IMF proposals for two international bank taxes. Mr. Darling has gone on to say that a unilateral tax, imposed by just one country, “would simply risk being undermined.”

Strong allies and trading partners of the US, such as Canada, Australia, Japan, and India have expressed significant reservations about the proposed IMF global bank tax.

**a. Do you support either of the IMF’s suggestions for a global bank tax?**

It is my understanding that in 2010, at the request of the G-20 Leaders, the IMF issued a report on how the financial sector could make a fair and substantial contribution to meeting the costs associated with government interventions in the crisis. The IMF analyzed three options: a financial stability contribution, a financial activities tax, and a financial transaction tax. The IMF concluded that the latter tax was inefficient, vulnerable to evasion, and likely to fall on retail investors. For those reasons, the IMF

only recommended the first two options for those countries that were contemplating fees on their banks.

The IMF's proposal for financial stability contribution is similar to President Obama's proposed Financial Crisis Responsibility Fee. The Financial Crisis Responsibility Fee imposes a modest fee on the riskiest parts of the balance sheets of financial institutions with assets over \$50 billion so that taxpayers are not on the hook for excessive risk taking by the largest financial institutions.

**b. Was the Chancellor of the Exchequer correct that a unilateral tax, imposed by just one country, “would simply risk being undermined”?**

I am not familiar with Mr. Darling's remarks. In January 2011, the UK instituted a financial fee on the balance sheets of financial institutions, which remains in place.

**c. At the margin, would a US-specific bank tax drive financial institutions to countries without a bank tax? Why or why not?**

My understanding is that the Treasury believes that the Administration's proposed Financial Crisis Responsibility Fee is a smarter proposal than a financial transactions tax because the fee is levied on the riskiest assets of the largest firms, so it is unlikely to create incentives to move activities offshore. To the extent it changes incentives, it would likely discourage excessive risk taking by the largest institutions and push activities to institutions below \$50 billion in size on the margins.

**d. Let us suppose for a moment, even though this is unlikely, that all G20 countries agreed to impose a global bank tax, along the lines of what the IMF has proposed. However, let us suppose that Hong Kong, one of the world's leading banking and financial centers, refused to impose a bank tax. Would this drive tremendous amounts of banking from the G20 countries to Hong Kong?**

As noted above, a fee imposed on the riskiest assets of the largest firms would most likely change incentives in favor of less risky assets and smaller institutions within each jurisdiction rather than drive transactions offshore.

**e. How should the US respond to the concerns of Canada, Australia, Japan, and India about the proposed IMF global bank tax?**

It is my understanding that the G-20 Leaders agreed at the Toronto Summit in June 2010 that individual countries should make the determination whether they would impose any fees or taxes on their financial sectors. The Administration has consistently opposed a financial transactions tax on the grounds that it would be vulnerable to evasion, create incentives for financial reengineering, and burden retail investors.

**Question 78:**

**Mr. Lew, President Obama talks frequently about ‘closing loopholes’ to raise revenue. I am concerned that it sounds like the administration’s definition of a loophole may be different from how the term is generally understood. I think of a tax loophole as the use of a tax provision in a way not intended by Congress when enacted. How do you define the term ‘loophole’? Do you have general criteria for determining what a loophole is or does your definition depend solely on who or what industry is utilizing a given tax provision?**

The term “loophole” is a non-technical term that is used to mean a variety of different things, depending on the context. In the strictest sense, a loophole is a feature of the tax system that leads to outcomes that were unanticipated and are contrary to the intent of a tax provision. A more commonly used description would cover special tax benefits, many of which may be unjustified.

While the term “loophole” is subject to various definitions, what really matters in considering tax reform is identifying features of the tax system that promote or hinder its operation – provisions that make the tax system more or less efficient, fair, simple, and so forth. I look forward to working with you and the Committee on tax reform that will make the tax code simpler, fairer, and more efficient.

**Question 79:**

**Carbon Tax – In President Obama’s inaugural address he pledged to address climate change in his second term. A carbon tax is one of the options that President Obama could pursue. Given the enormous tax increase that would result from a carbon tax, how would you advise the president to use carbon tax revenues? What would your highest priorities be?**

The Administration has not proposed a carbon tax, nor is it planning to do so.

**Question 80:**

**Prior to enactment of the fiscal cliff tax legislation (ATRA) maximum marginal income tax rates for both C corporations and individuals were the same (35%). Under current law business activities conducted by individuals or flow-through entities taxed to individuals are now taxed at a higher maximum marginal rate (39.6%) than business activities conducted by C corporations (35%). The tax provisions implemented under the Affordable Care Act add an additional 3.8% tax burden on business activities taxed to individuals in many cases as well. This wedge could grow even larger as the United States now has the highest corporate income tax rate of any OECD country and there is bipartisan agreement that corporate tax rates should be reduced as part of any meaningful tax reform. Is it good tax policy to have substantially higher tax rates apply to business activities conducted by individuals or flow-through entities taxed to individuals?**

Setting appropriate tax policy involves tradeoffs. Tax rates should be as low as possible consistent with the need to pay for the goods and services expected by the public and necessary to provide for our common defense and general welfare. It seems appropriate that our most

affluent families should shoulder a reasonable share of the burden of keeping our fiscal house in order, and that is what underlies the Administration's support of the individual income tax increases that you identify.

In undertaking comprehensive tax reform, the relationship between individual and corporate income tax rates is an important consideration, and I look forward to working with you and the Committee on these issues.

**Question 81:**

**Differential tax rates on various types of income account for much of the complexity in our present tax system. Is it good policy to have differential tax rates apply to various types of income such as income from labor, capital gains and dividends?**

There are some good reasons to tax different income items differently. For example, because capital gains are taxed at realization rather than as they accrue, investors might hold on to less productive assets for longer than they should. Taxing capital gains at lower rates may reduce this lock-in effect. Similarly, capital gains on assets held over a long period of time may reflect a substantial inflation component. This is another rationale used to support a preferential tax rate on capital gains income. On the other hand, differential treatments sometimes create complexity and incentives to mischaracterize the form of income – such as the incentive to mischaracterize labor income as capital income in the form of carried interest. We have to consider the costs and benefits of setting different rates. If confirmed, I look forward to working with this Committee to strike this balance and improve the efficiency, equity, and simplicity of our tax code.

**Question 82:**

**Much of the complexity in our current income tax system is derived from the fact that we use it as a platform to encourage a variety of economic behaviors with public policy goals related to health care, retirement, housing and education to name a few. Please identify the provisions that you feel are the best examples of using the tax system effectively and efficiently to achieve desirable public policy goals. In addition, please identify those tax provisions that you feel have failed to achieve desirable public policy goals. In each case explain why.**

We should never lose sight of the fact that the primary purpose of the tax system is to raise revenue to fund needed government programs. However, our tax system can be a mechanism for meeting other policy goals. The earned income tax credit is one example of a provision that is widely regarded as a success in terms of encouraging work and lifting families and children out of poverty. The credit, which was proposed by President Nixon and added to the Tax Code in 1975, has enjoyed bipartisan support over the years. It was made permanent in 1978 and significantly expanded during the 1986 tax reforms, which indexed the credit for inflation and expanded eligibility. There are other well-intended provisions in the tax code that have been less successful in achieving policy goals, or are aimed at goals that could be better achieved through direct spending outside of the tax code. If confirmed, I look forward to working with this Committee to identify and improve or eliminate these provisions, and to strike the right balance

between raising revenue and meeting other policy goals as efficiently, fairly, and simply as possible.

**Question 83:**

**The Congressional Budget Office has recently estimated (Feb., 2013) that total federal tax receipts will reach 19.1% of GDP by fiscal year 2015 and spending will fall to 21.6% of GDP. Over the past 40 years average tax receipts as a percentage of GDP have been 17.9% while spending has averaged 21%. Last year Warren Buffet stated that raising 18.5% of GDP in tax revenues and spending 21% was a sustainable long-term pattern. What do you think are appropriate and sustainable long-term levels of tax revenue and spending relative to GDP?**

While historical averages are a useful benchmark, it is important to bear in mind that we face very different circumstances now than in previous decades. For example, the demographic profile of our population is changing. Baby boomers are retiring. An increasingly larger share of our population is becoming eligible for Social Security and Medicare. These demographic changes raise the share of spending in GDP needed to support the commitments already made to our seniors. If confirmed, I look forward to continuing to work with Congress to bring down deficits through a balanced combination of spending cuts and revenue increases in a manner that allows America's seniors to retire with dignity.

As noted above, benchmarks for fiscal sustainability include a stable debt-to-GDP ratio, which assure that the gap between spending and revenue is reduced to stabilize the debt as a share of the economy.

**Question 84:**

**As you know the District Court recently ruled ([Loving](#), No. 12-385 (D.D.C. 1/18/13)) that the IRS does not have the statutory authority to regulate tax return preparers it presumed it had when it imposed registration (PTIN) and competency standards. What level of federal regulation is appropriate and necessary for tax return preparers? If Loving is upheld on appeal should Congress pass legislation that gives the IRS specific authority to regulate tax return preparers?**

I have not had an opportunity to fully develop a policy position on the IRS's return preparer program. If confirmed, I look forward to working with you and the Committee in considering whether additional legislation is necessary.

**Question 85:**

**As you know Douglas Shulman recently completed his term as IRS Commissioner. What do you think are the greatest challenges that the new IRS Commissioner will face? What aspects of tax administration do you think are most important for the new Commissioner to focus attention and resources on?**

The IRS, like other agencies, is facing a number of challenges made all the more complicated by the current budget environment. Obtaining sufficient resources to maintain robust service and enforcement programs is certainly one of the greatest challenges facing the IRS today. In addition, over the past few years, the IRS has seen a significant increase in refund fraud schemes, particularly those involving identity theft. Ensuring adequate information technology capabilities is another major challenge for the IRS.

**Question 86:**

**Your employment agreement with the Citigroup Global Wealth Management (GWM) business has a provision stating:**

***Treatment of Equity Compensation Upon Separation:***

***Notwithstanding anything to the contrary (whether in this agreement or otherwise), if you terminate your employment on or after January 1, 2008, as a result of your acceptance of a full-time high level position with the United States government or regulatory body, all of your outstanding equity awards (basic shares, premium and supplemental shares) (including your sign-on restricted stock award, or any cash award in lieu thereof, and the stock portion of any incentive and retention awards) will immediately vest, or, at GWM's sole discretion, GWM shall promptly pay you the cash equivalent of any forfeited shares measured as of the date of termination.***

- a. Why didn't Citi provide such acceleration of vesting if you had left Citi to work for a charity?
- b. Why didn't Citi provide such acceleration of vesting if you had left Citi to work in the private sector not in competition with Citi?
- c. Why didn't Citi provide such acceleration of vesting if you had left Citi to retire?
- d. Do you believe Citi was pleased to have one of their senior employees accept a full-time high level position with the United States government?
- e. Does Citi have any current dealings with employees of the United States government, and in particular in the Treasury Department?
- f. Could there be any potential advantage to Citi in having one of its recent former employees be in a full-time high level position with the United States government?
- g. How was the determination made that a position with the United States government was sufficiently "high level" that this benefits vesting acceleration clause was triggered? Who made that determination? What were his/her criteria?

Given my long history of public service, and interest in potentially returning to it, I sought this provision. I believe Citigroup agreed to include it, because such an agreement was consistent

with Citigroup's goal of using deferred compensation, such as the vesting of stock compensation over time, to discourage employees from leaving and joining competitors. I did not have a similar personal history with private sector non-competitors or with charities, and I had no plans to retire at the time. When I left Citigroup, there was general agreement that my departure to become Deputy Secretary of State satisfied the provision.

In regard to your other questions, I have no knowledge of Citigroup current business dealings. I have always complied with government ethics rules and have always followed the guidance of ethics officials. If confirmed, I would continue to do so.

**Question 87:**

**You identified in your testimony, with respect to your roles in Citigroup's Global Wealth Management and Citigroup Alternative Investments units, that you were not in the business of making investment decisions, but were "...certainly aware of things that were going on..." and that you "...take away from that experience a deep understanding that there are risks that we need to be very much on guard against..." and I would be delighted to discuss those policy considerations as we go forward. You also identified that you were "...aware that there were funds that were in trouble."**

- a. **Please identify any specific risk-taking activities of the Global Wealth Management and Citigroup Alternative Investments units that provided you with understanding of risks that we need to guard against.**
- b. **Did you have knowledge of allegations surrounding Citigroup's Class V Funding Collateralized Debt Obligation, or the ASTA, MAT, or Falcon funds and did you participate in any discussions or correspondence about those allegations? If so, please provide details.**
- c. **While managing with an objective of provide efficiencies at the Citigroup units that you oversaw, were any services of Citigroup Global Services utilized?**

In my testimony, I was referring to the general factors that contributed to the 2008 financial crisis, including the emergence and rapid growth of institutions and financial activities outside the scope of classic banking regulation (commonly referred to as the "shadow banking" system); a dramatic and widespread increase in leverage and risk; increased reliance on short-term funding sources (such as the repurchase or "repo" market); fundamental breakdowns in risk management practices across the financial sector; increased complexity and lack of transparency regarding the over-the counter derivatives markets; and, an outdated and inadequate regulatory structure, with weak or nonexistent capital requirements. As I testified, it has been quite a number of years, and I do not recall the specific Citigroup financial products, or investment funds referenced in your question.

**Question 88:**

**At least one of your employment agreements with Citigroup included a clause stating that “your guaranteed incentive and retention award” would not be paid upon exit from Citigroup, but there was an exception that you *would* receive that compensation “as a result of your acceptance of a full-time high level position with the United States government or regulatory body...” Please explain this exception in your employment agreement and whether you are aware if such an exception is provided in agreements of executives at the time you were at Citigroup who were similarly situated relative to the position for which you were accepting.**

The provision referenced in your question states that certain guaranteed awards would not be paid if I left Citigroup before the end of 2007. As your question also notes, there was a limited exception to that provision. I did not leave Citigroup, however, until 2009. Accordingly, neither the provision nor the exception was triggered. I am not familiar with the employment agreements of other Citigroup employees.

**Question 89:**

**Mr. Lew, we've heard that you had not heard of the Ugland House until last week, though for many years you were a limited partner in a hedge fund that was domiciled there. This is especially interesting given that the Ugland House has become a symbol to many of my colleagues for many bad things that need to be stopped. The specific nature of the activity differs from speech to speech, but any casual observer of Congress could not fail to believe that very bad things happen at the Ugland House based on statements made by my colleagues. Based on a search of the Congressional Record for the past 4 years, or last two Congresses before the current Congress, the Ugland House was mentioned at least 44 times on the Senate floor, and many of those times by the then Chairman of the Budget Committee.**

In a speech given last year on September 20, the former Budget Chairman gave a speech where he literally said that Congressman Paul Ryan's budget was a monstrosity. One of the reasons that budget was a monstrosity was “they refuse to do anything to close the tax loopholes that are allowing certain wealthy people to avoid paying taxes in this country entirely. I have shown on the floor of the Senate many times a picture of a five-story building in the Cayman Islands called the Ugland House.” In the same speech the Budget Chairman claimed that “the Ryan budget fails the moral test.

**Mr. Lew, I am interested in your point of view on this since in your two tenures as Director of OMB you have put together multiple budgets.**

**The former Chairman of the Budget Committee used very strong language in discussing the Ugland House and the activities attributed to it. Many others have used similar language too. How do you respond to that rhetoric, in general and specifically regarding your own investment headquartered at the Ugland House?**

In regard to my investment, I made it because I wanted to diversify my portfolio, invest in international companies, and modestly increase the risk of my holdings, which always have been

very conservative. I did not consider tax issues or where the fund was located. I invested \$56,000. I got back \$54,418. During the course of the investment, I reported all income and expenses on my tax returns, and I paid all taxes that were due. Also, I have been fully transparent about the investment. I disclosed it to the three Senate Committees that considered my previous nominations during this Administration—as well as to the Office of Government Ethics and to ethics officials at the State Department and OMB. I have responded to every question from this Committee.

In regard to the broader issue of offshore tax evasion, my guiding principle would be, if confirmed, that all U.S. taxes should be paid, regardless of the form of a particular investment or its location. In other words, no taxpayer should be allowed to hide income outside of the United States, in an offshore tax haven, to avoid paying the appropriate U.S. taxes.

**Question 90:**

**Mr. Lew, this hearing has shown light on a disparity. The disparity is between your Cayman Islands investment and the rhetoric from the President and my friends on the Democratic side regarding Cayman Islands investments.**

**Should it be a concern to US tax policymakers that many US taxpayers, did, as you did, and invested in a business organized in the Cayman Islands? That is, should we care that there may be an attractiveness to investments subjected to a low rate of tax in a foreign jurisdiction?**

**Put another way, isn't the answer really to look deeper and make US investments more attractive with fundamental tax reform? Wouldn't our preference be to make US businesses more attractive for US investors and foreign investors?**

In regard to the issue of offshore tax evasion, please see my answer to Question 89. In regard to fundamental tax reform, I support reforming the tax system so American businesses can thrive and compete. As I testified at my confirmation hearing, I think tax reform is an extremely important priority, and, if confirmed, I would look forward to working with the Committee on a bipartisan basis to help make it happen.

**Question 91:**

**Prior to investing in the Citigroup Venture Capital International (CVCI) private equity fund, did you analyze the investments made by the fund when and before you invested?**

I believe I invested at the time the fund was created (or shortly thereafter), so there were no individual investments to analyze. Instead, I invested based on the fund's international investment strategy. I believe the fund ultimately invested in a mix of foreign corporations located around the world—in places like India, Bulgaria, Lithuania, and Chile—that were engaged in a wide range of businesses, from pharmaceuticals to power generation to vegetable oil.

**Question 92:**

**Is OMB Memorandum 99-13 (March 30, 1999, signed by OMB Director Jacob J. Lew) still relevant guidance for the heads of departments, agencies, and independent establishments to consult in seeking to comply with the Congressional Review Act (CRA, 5 USC Chapter 8)? Has Memorandum 99-13 been superseded or cancelled?**

I understand that OMB Memorandum 99-13 is still relevant guidance and has not been superseded or cancelled.

**Question 93:**

**Who is the Treasury Department’s “Desk Officer in OMB’s Office of Information and Regulatory Affairs (OIRA)”? Is the Desk Officer for the Treasury Department the same as the Desk Officer for the IRS?**

The Office of Information and Regulatory Affairs (OIRA) assigns career policy analysts, or “desk officers,” to handle the review of regulations promulgated by agencies across the federal government, one of whom handles the Department of the Treasury and its bureaus.

**Question 94:**

**What is the “established practice” for the Treasury Department and for the IRS to comply with the Congressional Review Act?**

I am not sure precisely what you are asking, but I assume you are referring to Memorandum 99-13, referenced in question 92. Different agencies have different practices in regard to submitting rules for OIRA review, and I have not had an opportunity to review Treasury’s process in detail. Nonetheless, I understand that Treasury prepares a Notice of Planned Regulatory Action for every proposed and final Treasury rule published in the Federal Register. The memorandum contains basic information, such as the title of the rule, planned publication date, and a brief description that includes information designed to help OIRA determine the status of the rulemaking under the Congressional Review Act. Treasury generally submits the memorandum to OIRA by email.

**Question 95:**

**Mark Mazur (now the Assistant Secretary of the Treasury for Tax Policy) has informed the Committee that “Pursuant to a longstanding agreement between the Office of Management and Budget (OMB) and Treasury, Treasury is responsible for alerting OMB to any ruling document that reasonably could be expected to have a significant economic impact, which also would enable OMB to determine whether the ruling document is ‘major’ within the meaning of the CRA.”**

- a. When did this “longstanding agreement” originate?

- b. Were you a director of OMB at the time this longstanding agreement originated?**
- c. Is this “longstanding agreement” in writing? If yes, then please send a copy of it to the Committee. If no, then please reduce the agreement to writing and send it to the Committee.**
- d. Please send the Committee a list of all instances of the Treasury since March 29, 1996 alerting OMB to any ruling document that reasonably could be expected to have a significant economic impact.**
- e. How does the Treasury make a determination whether a rule is subject to E.O. 12866 review?**

OMB designates and reviews “significant regulatory actions” as that term is defined in section 3(f) of Executive Order 12866. These include rules with an annual economic impact greater than \$100 million, rules that raise novel legal and policy issues, rules that interfere with the actions of other agencies, and rules that materially impact the budgets of certain agency programs. For any rule that is covered by E.O. 12866 and reaches the \$100 million threshold, which is commonly known as “economically significant” regulatory action, Treasury analyzes the costs and benefits of the proposed rule and its alternatives, consistent with OMB Circular A-4. For rules that do not reach the economic threshold, but that are designated by OMB as significant regulatory actions, Treasury adheres to the principles set forth in Executive Orders 12866 and 13563.

In regard to the IRS, I understand that pursuant to OMB guidance implementing E.O. 12866, and longstanding agreements between OMB and Treasury, only IRS legislative rules that constitute “significant regulatory actions” are subject to E.O. 12866 review. I further understand that Treasury is responsible for alerting OMB to any ruling document that reasonably could be expected to meet the definition of a significant or economically significant regulatory action under Executive Order 12866, or otherwise have a significant economic impact, which also would enable OMB to determine whether the ruling document is “major” within the meaning of the CRA. I understand that this longstanding agreement originated during the Reagan Administration. During my service as Director of OMB, I do not recall revisiting the agreement or studying the issue in detail.

**Question 96:**

**Mark Mazur has informed the Committee that “there may be instances where the effects on the economy derive from the regulation itself [rather than from the statute].”**

- a. Please list those Treasury regulations promulgated since March 29, 1996 where the effects on the economy derive from the regulation itself.**
- b. Do you believe it is generally easy to tell whether a given regulation is the only permissible interpretation of the statute?**
  - If yes, then presumably answering 5.a) above should be easy.**

- If no, then do you think the default assumption should be when performing a CRA analysis is that the effects on the economy derive from the taxpayer obligations imposed by the regulation?

I have not had an opportunity to study this issue in detail. If confirmed, I would be happy to discuss the issue further with the Committee.

**Question 97:**

- a. Do you agree that before a Treasury rule takes effect, the Treasury Department must submit to Congress a report, which among other things must state whether the rule is a major or non-major rule?
- b. Do you agree that only the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget may make a finding that a rule is a major rule within the meaning of 5 USC section 804(2)?
- c. Assume that Treasury Rule X would have an effect on the economy of \$100 million or more. Also assume that the Treasury Department never submits Rule X to OIRA for review.
  - i. Would Rule X be a major or non-major rule?
  - ii. Would the Treasury Department be complying with both the letter and the spirit of the CRA by reporting to Congress that Rule X is non-major?
  - iii. If you were the Secretary of the Treasury and this situation arose, would you tell Congress that Rule X was non-major?

The Congressional Review Act (“CRA”) states that, “[b]efore a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing . . . a concise general statement relating to the rule, including whether it is a major rule.” The CRA further defines the term “major rule” to mean any rule that the Administrator of the Office of Information and Regulatory Affairs finds has resulted (or is likely to result) in one of three specified criteria being satisfied. I do not believe it would be appropriate to speculate about hypothetical situations. If confirmed, I would comply with the CRA.

**Question 98:**

You wrote: “OIRA’s centralized review process enables a president to co-ordinate a government-wide regulatory policy and receive a relatively dispassionate and analytical ‘second opinion’ on the output of Executive Branch agencies operating in his name.”

**Do you believe OIRA's centralized review process includes review of Treasury tax regulations? Should it so include?**

I generally support the centralized review of Executive Branch regulations by the Office of Information and Regulatory Affairs (OIRA). I understand that Treasury notifies OIRA regarding every proposed and final Treasury rule published in the Federal Register. I also understand, however, that pursuant to longstanding practice across several Administrations, IRS rules generally are not subject to E.O. 12866 review. During my service as Director of OMB, I do not recall revisiting the agreement or studying the issue in detail. If confirmed, I would be happy to discuss the issue further with the Committee.

**Question 99:**

**You wrote: “[T]hose who have studied the issue from the perspective of the president, including liberal and conservative Democrats, have uniformly concluded that the president must have a centralized mechanism to review regulations as an important tool to implement policy.”**

**Must this centralized mechanism also review Treasury regulations, including tax regulations? Please explain your answer.**

Please see my answer to Question 98.

**Question 100:**

**You wrote: “It is important that the new president reaffirm the legitimacy and importance of centralized review ...”**

**Do you think it is important that the new Treasury Secretary reaffirm the legitimacy and importance of centralized review?**

Please see my answer to Question 98.

**Question 101:**

**Will you here reaffirm the legitimacy and importance of centralized review by assuring the Committee that Treasury/IRS will submit all new tax regulations to OIRA for centralized review?**

Please see my answer to Question 98.

**Question 102:**

**Title I of the Dodd-Frank Act established the Financial Stability Oversight Council (FSOC) which is supposed to be a watchdog over possible threats to stability of the financial system—also known as “systemic risk.” Please provide me with your definition of**

**“systemic risk” and identify specific metrics you would use to determine whether, when, and where there might exist systemic risks and threats to financial stability. Please, also, give me your views about possible current risks to financial system stability from:**

- a. The tri-party repo market;**
- b. Money market mutual funds;**
- c. The Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac;**
- d. Competitive currency devaluations and any roles played by China’s managed peg and by outsized quantitative easing policies pursued by the Bank of Japan and by the Federal Reserve;**
- e. Federal Reserve quantitative easing;**
- f. The “fairly significant pattern of reaching-for-yield behavior emerging in corporate credit” as explained in Fed Governor Jeremy C. Stein’s February 7, 2013 speech at a symposium sponsored by the Federal Reserve Bank of St. Louis;**
- g. Federal debt.**

The Dodd-Frank Act frames systemic risk in terms of threats to the stability of the U.S. financial system. Congress created the FSOC to identify risks to U.S. financial stability, promote market discipline, and respond to emerging threats to the stability of the U.S. financial system. The Dodd-Frank Act lists a number of non-exclusive factors that the Council must consider before determining that a nonbank financial company could pose a threat to U.S. financial stability and should be designated for Federal Reserve supervision and enhanced prudential standards. I would expect to focus on these types of risks in assessing threats to financial stability.

The Council’s 2012 annual report highlights many of the risks noted in your question, including risks associated with the tri-party repo market, money market mutual funds, housing finance, the low interest rate environment, and the federal debt. If confirmed, I look forward to working with the Congress on these and other important issues.

**Question 103:**

**Of the options for money market mutual fund reform options considered by the FSOC, are there particular reforms that you favor.**

The financial crisis demonstrated that MMFs are susceptible to runs and can be a source of financial instability with serious implications for broader financial markets and the economy. While MMFs are more resilient today, more reform is needed to protect investors and improve the stability of the industry. I do not want to prejudge the outcome of the comment process on the FSOC recommendations. If confirmed, I look forward to learning more about the comments that FSOC received on these recommendations and engaging with FSOC members.

**Question 104:**

**What do you feel should be done, if anything, to reform activities in the tri-party repo market?**

I have not yet had an opportunity to study this issue in detail. However, my understanding is that the Treasury believes that the tri-party repo market remains a major area of concern. The Financial Stability Oversight Council's last two annual reports have stressed needed reforms to this market, particularly the elimination of most intraday credit exposure between the clearing banks and dealers. Without addressing this and other structural weaknesses in this market, the tri-party repo market is vulnerable to fire-sale conditions, as we witnessed in the financial crisis. The Federal Reserve Bank of New York is spearheading efforts to get the industry to implement necessary reforms in a timely fashion and is coordinating directly with regulators and through the FSOC. If confirmed, I would look forward to working with the Council to continue its work on this important issue.

**Question 105:**

**Which reform option, if any, from those laid out by Treasury in February 2011 is closest to the reforms you would support for the GSEs, Fannie and Freddie?**

The Administration is committed to a sustainable housing finance system that does not allow the GSEs to return to their previous form, where private gains were allowed at the expense of taxpayer losses. Any future system must also protect taxpayers and financial stability, promote private capital taking on more mortgage credit risk in a responsible way, and meet the needs of our nation's rental population. At the same time, we must preserve access to credit for American families, including long-term fixed rate mortgages, and better target government support for low- and moderate-income Americans, including the development of affordable rental options. Our housing finance system must also include stronger and clearer consumer protections and must establish a level playing field for all participating institutions.

**Question 106:**

**If confirmed as Treasury Secretary, when would you begin to actively pursue reforms to the GSEs, Fannie and Freddie and when would you expect to have arrived at your most preferred reform?**

It is critically important that we move ahead with reforming the housing finance market and winding down Fannie Mae and Freddie Mac. Creating a more stable and sustainable housing finance market is an important priority of this Administration, and, if confirmed, I would look forward to working on this issue with Congress.

**Question 107:**

**While the Federal Reserve (Fed) has been buying tens of billions of long-term Treasuries every month to push their rates down, Treasury has been busy lengthening the average maturity of federal debt. According to Fed Chairman Bernanke, such action by Treasury offsets some of the benefits of the Fed's policies. If you believe the Fed's story line, then you could conclude that Treasury is acting against Fed policy, which means Treasury is acting against a job-creation policy which it could reinforce, instead, if it wanted. Or, you may conclude that Treasury just takes the Fed's policies as given and wants to borrow more to capitalize on the low long-term rates that Fed policy artificially creates, and that job creation isn't a mandate of Treasury, so jobs are not the goal of Treasury and its debt management policy.**

- a. The Fed's policy of buying up tens of billions of long-term Treasuries each month, and prior quantitative easing measures, including the so-called "operation twist," to push long-term interest rates down is a purported effort to ultimately help job creation. Do you agree that the Fed's quantitative easing strategy of attempting to lower longer-term interest rates has led to and will lead to job creation relative to a setting in which there was no quantitative easing in place?**

The Treasury and the Federal Reserve are separate entities with different mandates. Treasury is focused on financing the government at the lowest cost over time and does not coordinate its borrowing strategy with the Federal Reserve's monetary policy actions. Treasury has had a long-standing policy through Administrations of both parties to refrain from commenting on independent monetary policy decisions by the Federal Reserve.

- b. Do you believe that lower longer-term interest rates, including rates on longer-Term Treasury securities, can help boost economic activity, including job creation? If so, why or why not?**

Lower longer-term interest rates, including rates on longer-term Treasuries, can potentially help support economic growth and job creation through several channels. For example, a key way this is done is by lowering the cost that homeowners must pay on their mortgages. As families are able to refinance their mortgages at lower interest rates, they will be able to keep more of their hard-earned money, which supports consumer spending, saving, investment, and job creation.

- c. Do you agree with Fed Chairman Bernanke the Treasury's strategy of lengthening the average maturity of outstanding federal debt is "an issue" and offsets some of the benefits of the Fed's policies?**

Treasury and the Federal Reserve are separate entities with different mandates. Treasury's goal is to finance the government at the lowest cost over time, while the Federal Reserve attempts to maintain price stability and maximum employment. Given the low level of interest rates at present, it does not appear that Treasury's borrowing activity is putting upward pressure on interest rates.

**Question 108:**

**Do you advocate issuance of Treasury securities at negative yields? If so, how soon would you, if confirmed as Treasury Secretary, move to provide such issuance?**

My understanding is that last year, Treasury announced that it was in the process of building the operational capability to allow negative rate bidding in Treasury bill auctions. Negative yields on Treasury securities are something for which many market participants had never planned. In my view, any decision to allow Treasury securities to be issued at negative yields would have to be predicated on the market's ability to purchase and trade these securities in an orderly and efficient manner. If confirmed, I would be prepared to assess the need to issue Treasury securities at negative rates if market conditions warrant.

**Question 109:**

**Do you advocate issuance of “floating rate notes” by Treasury? If so, how soon would you, if confirmed as Treasury Secretary, move to provide such issuance and what reference rate would you advocate using? Please, also, discuss what you feel are risks and potential benefits to Treasury issuance of floating rate notes.**

In August 2012, Treasury announced plans to develop a floating rate note (FRN) program to complement its existing suite of securities and to help achieve its objective of financing the government at the lowest cost over time. I believe it is prudent for Treasury to evaluate the tools that it has to achieve those goals. Currently, many market participants are searching for a short duration, stable-value product and floating rate notes would meet this demand and allow Treasury to further extend the weighted average maturity of its portfolio. As I understand it, Treasury is developing the optimal issuance structure for FRNs, has not reached a final decision regarding a reference rate, and currently estimates the first FRN auction to be about a year away.

**Question 110:**

**Concern has been expressed about the impact of the Dodd-Frank and the Basel III reforms on bank capital on the financial system and our economy broadly. I am concerned that failure to consider and balance the combined impact of all of the regulatory changes will have real consequences on our economy beyond just the obvious constraints on bank lending and the availability of credit.**

- a. **Do you share these concerns?**
- b. **Given the magnitude of all these rules and their impacts on lenders and investors of all sizes, do you believe that it will be prudent for the FSOC to examine the cumulative impact of ALL these reforms, and report to Congress on what this means for credit availability and economic growth?**

I think we need to be attentive to the benefits and burdens of all regulations, particularly in an area as important to the economy as financial services. For example, the crisis revealed that

banking institutions need more and better capital to help reduce the probability of a future financial crisis. It is important that Treasury continues its dialogue with the banking regulators as they work towards implementing Basel III capital standards and the Dodd-Frank Act, recognizing that we need strong standards that reflect lessons learned from the financial crisis while avoiding the imposition of undue costs. If confirmed, I would continue the important work of coordinating closely with the regulatory agencies, including Treasury's engagement with the banking regulators and the FSOC's efforts to facilitate information sharing and coordination among its member agencies.

**Question 111:**

**In a recent interview, former Treasury Secretary Geithner told the Wall Street Journal that when another major financial crisis comes, "[Y]ou're going to have to do what you need to do to try to reduce the risk of damage and contagion on the financial system." Do you share Secretary Geithner's belief that the government has to "do whatever it takes" during a crisis? If so, do you believe that a Treasury Secretary who responds to severe financial crisis should be bound by the limits of law?**

I share the belief of Secretary Geithner that in a period of crisis one must act boldly and swiftly, but, of course, within the limits of the law, to protect taxpayers and the stability of the financial system.

**Question 112:**

**Do you believe that the Dodd-Frank Act ends too-big-to-fail?**

The reforms put in place with the Dodd-Frank Act provide regulators with critical tools and authorities that we lacked before the crisis to resolve large financial firms whose failure would have serious adverse effects on financial stability. I understand that the emergency resolution authority for failing firms created under Title II prohibits any bailout, while protecting taxpayers and the U.S. economy. For any financial firm that is placed into receivership under this Dodd-Frank emergency resolution authority, management and directors responsible for the failed condition of the firm will be removed and shareholders will be wiped out.

In addition, the largest firms have written "living wills" to provide a roadmap to facilitate rapid and orderly resolution in the event of bankruptcy. In addition to resolution, large, complex financial institutions will now be required to hold significantly higher levels of capital. Leverage is significantly lower, reliance on short term funding is lower, and liquidity positions have already improved such that large firms are less vulnerable in the event of a downturn.

**Question 113:**

**Do you believe that because of financial "reforms" implemented by the Dodd-Frank Act there will be no more taxpayer financed bailouts?**

I believe the reforms put in place by Dodd-Frank which are described in Question 112 provide mechanisms to avoid future taxpayer financed bailouts.

**Question 114:**

**Richmond Federal Reserve Bank President Jeffrey Lacker recently suggested that the next big failed financial firm should go through bankruptcy without taxpayer funding. Do you agree with Mr. Lacker?**

It is hard to predict the contours of the next financial crisis or the catalyst for the failure of a particular firm. The Dodd-Frank Act preserves the ability of a firm that faces failure to enter bankruptcy and provides a new alternative to resolve a failing firm whose failure would have serious adverse effects on U.S. financial stability, in an orderly fashion, without cost to the taxpayer, or impact on the broader financial system. These new authorities and tools that we lacked before the crisis will provide even greater flexibility to mitigate risk to the financial system and the economy.

**Question 115:**

**Former Treasury Secretary Geithner has stated that "you won't be able to make a judgment about what's systemic and what's not until you know the nature of the shock." Do you agree with Former Secretary Geithner's recognition that Dodd-Frank's infrastructure, such as the FSOC, for ferreting out systemic risk is not going to be effective anyway? If so, what changes to Dodd-Frank do you recommend should be made to better reflect reality?**

I agree with Secretary Geithner that financial shocks are sometimes difficult to predict, particularly if they are unprecedeted or emanate from less-regulated or opaque parts of the financial system. The Dodd-Frank Act put in place measures to make our financial system more resilient to unforeseen shocks, and created a new body, the FSOC, to monitor risks to financial stability across the system. It also created tools for authorities to address shocks should they occur. Because the nature of risks in our financial system continually evolves, it is important that we continue the work of establishing a robust regulatory framework that protects taxpayers and the stability of the financial system.

**Question 116:**

**The Secretary of Treasury, in his capacity as chairman of the FSOC, has an important coordinating role to play in the financial regulatory process both domestically and internationally. Unfortunately, since the passage of Dodd-Frank, inter-agency regulatory conflicts have been allowed to fester and international tensions over regulatory reform have mounted. If confirmed, what specific steps would you take to foster effective inter-agency rulemaking and to smooth international regulatory relations?**

The Dodd-Frank Act encourages interagency coordination and information sharing, including through the establishment of the Council. The Council has played a crucial role in fostering both

formal and informal coordination among regulatory agencies. I expect that the Council will continue to serve as a forum for agencies to discuss important issues regarding financial markets and regulation. The implementation of the Dodd-Frank Act has involved unprecedented cooperation between agencies in rule writing and other efforts. If confirmed, as Chair of the FSOC, I would continue the Council's important work in facilitating interagency coordination.

**Question 117:**

**The FSOC has been unresponsive to inquiries I have made to its voting members, and has, overall, been nontransparent in its operations. Indeed, the title of a September 2012 Report by the United States Government Accountability Office is titled “New Council and Research Office Should Strengthen the Accountability and Transparency of Their Decisions,” where Research Office is reference to the unaccountable Office of Financial Research (OFR). If confirmed as Treasury Secretary, what concrete steps will you take to substantially improve the accountability and transparency of the FSOC and OFR and to substantially improve responsiveness of the FSOC and OFR to requests for information by Members of Congress?**

My understanding is that the Council has consistently maintained transparency with regard to the implementation of its specific authorities. For example, the Council provides notices of meetings, publishes the minutes of its meetings, and has issued several rulemakings and reports for public comment, including on money market mutual fund reform and the criteria for designating nonbank financial companies for Federal Reserve supervision and enhanced prudential standards. Moreover, the Council's annual report, which is provided to Congress and made available to the public online, provides a clear public record of its collective judgments, through its recommendations and assessments of threats to financial stability.

One of the central missions of the Council is to identify, monitor, and respond to emerging threats to financial stability. To fulfill this mission, I expect that the Council frequently discusses market developments and market functioning involving many companies and financial sectors. I would expect that these discussions are often preliminary and frequently involve market-sensitive and confidential supervisory information. I believe this is necessary to support the Council's ongoing work in fostering open dialogue, constructive coordination, and information sharing across its members.

If confirmed as Treasury Secretary, I will work to foster the Council's continued transparency, to the extent feasible given the sensitivities outlined above.

**Question 118:**

**If confirmed as Treasury Secretary, will you recommend that the President dissolve the President's Working Group on Financial Markets this year? If not, why not?**

I have not had an opportunity to fully develop a position on any remaining responsibilities of the President's Working Group on Financial Markets, but if confirmed, I will consider this issue.

**Question 119:**

**Housing is a significant portion of the nation's gross domestic product. Both Treasury and the Fed have commented that tighter lending standards are preventing creditworthy borrowers from buying homes, and this is slowing the revival in the housing sector and slowing the economic recovery.**

**One reason for the lack of mortgage availability is that the private capital has been largely absent from funding mortgages since 2008, while the federal government through the GSEs, FHA, VA and USDA support over 85 percent of the nation's newly originated mortgages.**

**Do you believe that attracting private capital for mortgage backed securitizations is important to the recovery of our housing market? If so, as Secretary, how will you work to attract private capital back into the mortgage finance market and shrink the government footprint?**

Yes, attracting private capital and responsibly shrinking the government's footprint in housing finance over time are critical to the long-term stability of our housing market and to protecting taxpayer interests. However, we must balance policy actions that reduce the government's footprint against the need to preserve access to mortgages for creditworthy borrowers. In addition to winding down the GSEs, we must make it more attractive for private capital to take on more mortgage credit risk in a responsible manner. Many rules are being developed and implemented that will help give market participants clarity, such as the Qualified Mortgage rule. However, much work remains to be done. If confirmed, I look forward to supporting clear and transparent rules around housing finance.

**Question 120:**

**The current level of federal debt held by the public is 76% of GDP, more than double the 37% level it averaged during the 50 years between 1957 and 2007. Is the current debt level too high? If it is, what is an acceptable and sustainable level and how long should we take to get there?**

A key indicator of fiscal sustainability is a stable debt-to-GDP ratio, which stands at 72.5 percent at the end of FY 2012, for federal debt held by the public. A stable debt-to-GDP ratio assures that the debt is no longer growing relative to the size of the economy and that non-interest spending is aligned with revenues. The deficit reduction measures the President proposed in his FY 2013 Budget, together with the deficit reduction agreements reached with Congress since 2011, would stabilize the debt as a share of the economy before the end of this decade. Though there is still more work to do, this is an important benchmark for stabilizing our fiscal outlook.

**Question 121:**

**On August 1, 2012, the House Energy and Commerce Committee released a report stating that the Office of Management and Budget analyst Kelly Colyar suggested that taxpayers**

would lose only \$141 million if the company were immediately liquidated, as opposed to \$385 million if the government restructured the loan agreement and released more money to Solyndra. It was also reported that career OMB staff members circulated a series of e-mails emphasizing the risks of restructuring the loan.

- a. Referring to section VII of the House Energy and Commerce Committee's report titled The Solyndra Failure, were you ever aware of Mr. Colyar's and other career OMB staff member warnings?
- b. Were you ever notified by OMB analysts that a refinancing plan that favored private investors might violate the law?
- c. Were you aware at the time of the decision to lend Solyndra money that its largest investors were funds linked to George Kaiser, a fundraiser for the president?
- d. Did you ever speak with George Kaiser about Solyndra and the Department of Energy's loan guarantee program? If so, describe the discussion.
- e. Did you intervene in any way to prevent the refinancing plan based on any information that you received about Solyndra's deteriorating financial condition?

In September 2011, OMB Deputy Director for Management Jeffrey Zients testified before the House Energy and Commerce Committee on this subject. He stated that, "OMB engages in general oversight of the programs being executed by federal agencies." He described how, in that role, OMB was "asking tough questions and pressure testing assumptions, respectful of DOE's statutory authority to make final programmatic decisions on Title XVII loan guarantees." He discussed OMB's role under the Federal Credit Reform Act of 1990, and how OMB reviews and approves credit subsidy cost estimates for all loans and loan guarantee programs, including the DOE Loan Guarantee Program. Ultimately, Mr. Zients testified that OMB staff were comfortable with the final credit subsidy score for this project. Mr. Zients' testimony is consistent with my recollection.

**Question 122:**

During a recent Senate hearing with major bank regulators, an observation was made that large banks trade below their book value and a conjecture was made that the reason is either that "nobody believes that the banks' books are honest" or that nobody believes that the banks are really manageable. Do you agree with the observation and the conjecture?

There are a range of factors that impact the valuations of large banks' shares, but I do not want to speculate about any specific factor.

**Question 123:**

The Treasury Department has no set of coherent policies regarding Department use of social media. As things stand, use of such media is loosely governed by Office of

**Management and Budget memoranda, most of which apply to privacy issues. The Treasury Department seems not to do much, if any, monitoring of public postings on its social media outlets.**

**For example, on its Facebook page, private telephone numbers and the like can be viewed among the public commentary.**

**Will you, if confirmed as Treasury Secretary, develop and provide to Congress policies and procedures governing Treasury's use of social media outlets?**

The Office of Management and Budget (OMB) has issued government-wide guidance regarding the appropriate use of social media. Moreover, my understanding is that Treasury's Office of Public Affairs, in consultation with Treasury's Office of General Counsel, periodically provides guidance on the use of social media to Treasury staff. If confirmed, I would commit to having the Office of Public Affairs continue to inform Treasury staff of these guidelines and would provide information on Treasury policies and procedures regarding social media to Congress upon request.

**Question 124:**

**Last year, Treasury displayed on numerous social media outlets arguments and an infographic (titled “Penny Wise and Pound Foolish”) identifying funding levels for the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) specified in legislation pending before the Congress. The arguments and infographic represent, in my view, lobbying activities by Treasury, posted before the public on social media sites, against legislation pending before the Congress. The lobbying was with respect to funding levels for the SEC and CFTC, both of which are independent of Treasury.**

- a. **Do you support Treasury's use of appropriated funds to lobby against legislation pending before the Congress with respect to funding levels of regulatory bodies that are independent of Treasury?**
  
- b. **Would you, if confirmed as Treasury Secretary, institute any policies and procedures governing Treasury's use of appropriated funds that would prohibit the type of activity identified above?**

While I was not at Treasury last year, my understanding is that Treasury counsel has reviewed the infographic and has concluded that it is consistent with the law. According to a letter sent to Senator Hatch, counsel found that the infographic does not contain “a clear explicit appeal to the public to contact Members of Congress.” As a result, counsel found that the infographic does not violate the longstanding bright-line rule in determining whether an agency has violated the prohibition against grassroots lobbying established by the Government Accountability Office (GAO).

If confirmed, I would be committed to using social media to help keep the public informed of key policy issues relevant to Treasury, while continuing to ensure that all social media activities conducted by the Treasury are lawful.

**Question 125:**

**If confirmed as Treasury Secretary, would you argue against, or attempt to change or influence, any decisions made by the Federal Housing Finance Agency? If so, what would you attempt to change or influence, and why?**

The Federal Housing Finance Agency (FHFA) is an independent regulator of Fannie Mae and Freddie Mac (the GSEs). FHFA is also conservator of the GSEs. As an independent regulator, FHFA is responsible for making its own decisions.

**Question 126:**

**Do you support use of taxpayer funds to engage in further principal reduction mortgage modification schemes? If so, and if confirmed as Treasury secretary, what principle reduction measures will you propose or advocate?**

I support using principal reduction on a targeted basis where it makes economic sense to do so. As part of a payment-reducing loan modification, as in Treasury's Home Affordable Modification Program, principal reduction can help distressed underwater borrowers avoid preventable foreclosures and help housing markets to recover.

**Question 127:**

**Do you support the "Responsible Homeowner Refinancing Act of 2012" (S.3085)?**

I believe that creating more opportunities for homeowners to refinance their mortgages is very important for the continued recovery of our housing market as well as to the broader economic recovery. Refinancing at today's rates can help save an average middle class family \$3,000 a year and can get underwater homeowners on the path to restoring equity in their homes more quickly. The "Responsible Homeowner Refinancing Act of 2012 helps lower barriers for borrowers to refinance. If confirmed, I would support this bill and look forward to working with Congress and others to help find solutions that will make it easier for families to take advantage of the current low-rate environment.

**Question 128:**

**Internal Use Software:** Over 16 years ago, the Treasury issued proposed regulations on the definition of internal-use software (IUS). In 2001, the Treasury issued final regulations regarding the definition of internal-use software. Announcement 2004-9 may have confused matters as to whether those final regulations applied in the IUS context. Since 2004, the IRS has put every year on its priority-guidance plan issuing new proposed regulations concerning the definition of internal-use software. According to one US district

court, taxpayers “may rely on the ‘internal use software’ test from the 2001 Final Regulations at 26 C.F.R. § 1.41-4(c)(6)(vi).” FedEx Corp. v. United States (W.D. Tenn., June 9, 2009).

a. Has the IRS acquiesced to the FedEx decision?

No.

b. There may be final regulations that apply in the IUS area, or there may not be. FedEx may apply to just the western district of Tennessee, or it may apply throughout the United States. There may be proposed regulations coming out, or there may not be. Could you assure me that, in an effort to ease administration for all parties concerned, you, if you are approved as Secretary of the Treasury, will attempt to clarify this area of the law, and that you will report back to me in 2013 as to your clarification?

If confirmed, I will support Treasury and the IRS’s efforts to issue clarifying guidance concerning internal use software.

**Question 129:**

In responding to questions from Senator Burr, you seemed to raise a distinction between conversations with the President and briefings. I am concerned by this exchange because it suggests that in responding to questions from Members of Congress, you might respond to a very specific “letter” of a question rather addressing what is clearly recognizable as the “spirit” of the question.

When you received questions from myself and other Members of Congress, will you seek to be fully responsive, and not take efforts to limit the information contained in your response?

I strongly support transparency in government. If confirmed, I would seek to foster an open and constructive relationship with the Committee, and I would do my best to respond to requests in a forthcoming manner.

**Question 130:**

On August 20th, 2012, the House Oversight Committee asked for “all documents and communications between IRS employees and employees of the White House, Executive Office of the President, or any other federal agency or department referring or relating to the proposed IRS rule or final IRS rule between March 23, 2010, and August 17, 2012.” The Chairman and Committee staff have asked on numerous occasions for an update on this request.

Has IRS and/or Treasury compiled the documents and communications referenced in the August 20th letter? If the documents and communications have not yet been fully compiled,

**have IRS and/or Treasury begun compiling the documents and communications referenced in that letter? If so, do you have an estimate of when these documents and communications will be produced to the Committees?**

I believe in openness and transparency, and I also understand the need for vigorous oversight. I understand that Treasury has been cooperating with the Committee since August 2012 on these requests. I also understand that Treasury officials and attorneys have briefed Committee staff on the legal analysis behind these regulations, and that Treasury has produced hundreds of pages of materials responsive to the Committee's requests. If confirmed I would work with Congress, and all of Treasury's oversight bodies, so they are able to conduct their important oversight work.